

HB0107S01 compared with HB0107

~~text~~ shows text that was in HB0107 but was deleted in HB0107S01.

Inserted text shows text that was not in HB0107 but was inserted into HB0107S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Stephen G. Handy proposes the following substitute bill:

SUSTAINABLE TRANSPORTATION AND ENERGY PLAN

ACT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill expands the Sustainable Transportation Plan Act to include a large-scale natural gas utility.

Highlighted Provisions:

This bill:

- ▶ amends the Sustainable Transportation Plan Act to expand the program to include a large-scale natural gas utility;
- ▶ defines the pilot program period for a large-scale natural gas utility;
- ▶ defines parameters for the program; and
- ▶ makes technical changes.

HB0107S01 compared with HB0107

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-2-1, as last amended by Laws of Utah 2016, Chapters 267, 315, and 393

54-3-8, as last amended by Laws of Utah 2014, Chapter 381

54-4-2, as last amended by Laws of Utah 2014, Chapter 381

54-4-13.1, as enacted by Laws of Utah 2009, Chapter 303

54-4-13.4, as enacted by Laws of Utah 2013, Chapter 311

54-20-102, as enacted by Laws of Utah 2016, Chapter 393

54-20-105, as enacted by Laws of Utah 2016, Chapter 393

54-20-107, as enacted by Laws of Utah 2016, Chapter 393

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

Section 1. Section **54-2-1** is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Clean coal technology" means a technology that may be researched, developed, or used for reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

(3) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

HB0107S01 compared with HB0107

(b) is a qualifying cogeneration facility under federal law.

(4) "Commission" means the Public Service Commission.

(5) "Commissioner" means a member of the commission.

(6) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(7) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(8) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

HB0107S01 compared with HB0107

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

(9) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(10) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

(11) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (10)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

(12) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through,

HB0107S01 compared with HB0107

private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

(13) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(14) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(15) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

(16) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(17) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(18) "Large-scale electric utility" means a public utility that provides retail electric service to more than 200,000 retail customers in the state.

(19) "Large-scale natural gas utility" means a public utility that provides retail natural gas service to more than 200,000 retail customers in the state.

HB0107S01 compared with HB0107

~~[(19)]~~ (20) "Nonutility energy supplier" means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

~~[(20)]~~ (21) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

~~[(21)]~~ (22) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Section 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or

HB0107S01 compared with HB0107

consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(e) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [~~(21)~~] (22) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [~~(21)~~] (22)(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [~~(21)~~] (22)(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [~~(21)~~] (22)(e)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a

HB0107S01 compared with HB0107

period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(f) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(h) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(i) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) "Public utility" does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

HB0107S01 compared with HB0107

~~[(22)]~~ (23) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

~~[(23)]~~ (24) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

~~[(24)]~~ (25) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

~~[(25)]~~ (26) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

~~[(26)]~~ (27) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

~~[(27)]~~ (28) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

HB0107S01 compared with HB0107

~~[(28)]~~ (29) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

~~[(29)]~~ (30) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

~~[(30)]~~ (31) "Telephone cooperative" means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation's members and the public at cost plus a reasonable rate of return.

~~[(31)]~~ (32) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

~~[(32)]~~ (33) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

~~[(33)]~~ (34) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

~~[(34)]~~ (35) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery,

HB0107S01 compared with HB0107

elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

~~[(35)]~~ (36) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(36)]~~ (37) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

~~[(37)]~~ (38) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 2. Section **54-3-8** is amended to read:

54-3-8. Preferences forbidden -- Power of commission to determine facts --

Applicability of section.

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or

HB0107S01 compared with HB0107

facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), [~~(19)~~] (20), or [~~(21)~~] (22)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 3. Section **54-4-2** is amended to read:

54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of chapter.

(1) (a) The commission may conduct an investigation if the commission determines an investigation:

- (i) is necessary to secure compliance with this title or with an order of the commission;
- (ii) is in the public interest; or
- (iii) should be made of any act or omission to act, or of anything accomplished or proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule, regulation, service, or facility of any public utility.

(b) If the commission conducts an investigation under Subsection (1)(a), the commission may:

- (i) establish a time and place for a hearing;
- (ii) provide notice to the public utility concerning the investigation; and
- (iii) make findings and orders that are just and reasonable with respect to the investigation.

(2) This chapter does not apply to a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), [~~(19)~~] (20), or [~~(21)~~] (22)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 4. Section **54-4-13.1** is amended to read:

54-4-13.1. Natural gas vehicle rate -- Natural gas clean air programs.

HB0107S01 compared with HB0107

(1) The commission may find that a gas corporation's request for a natural gas vehicle rate that is less than full cost of service is:

- (a) in the public interest; and
- (b) just and reasonable.

~~{(2)} A program is in the public interest under Subsection (1)(a) if the program improves air quality through the use of low emissions vehicles.~~

~~— (3) (a) The commission may authorize a gas corporation to establish a program that promotes sustainability by increasing access to natural gas vehicles that includes:~~

~~— (i) an incentive to establish natural gas vehicle infrastructure;~~

~~— (ii) an incentive to support the production and connection of renewable natural gas at facilities for use in fleet operation; or~~

~~— (iii) any measure that the commission determines is in the public interest that incentivizes deployment of natural gas vehicle infrastructure.~~

~~— (b) The commission may review the expenditure made by a gas corporation for the program described in Subsection (3)(a) in order to determine if the gas corporation made the expenditure prudently in accordance with the purposes of the program.~~

~~— (c) A gas corporation proposing a program for approval by the commission under this section shall, before submitting the program to the commission for approval, seek input from:~~

~~— (i) the Division of Public Utilities;~~

~~— (ii) the Office of Consumer Services; and~~

~~— (iii) any person that files a request for notice with the commission.~~

~~— (4) A program under Subsection 54-4-13.1(2) shall be considered distinct and independent of Section 54-4-13.4.~~

~~— [(2)] (5) If the commission approves a gas corporation's request under Subsection (1), the remaining costs may be spread to other customers of the gas corporation.~~

(3) The commission may authorize a gas corporation to establish natural gas clean air programs that promote sustainability through increasing the use of natural gas or renewable natural gas that the commission determines are in the public interest, subject to the funding limits set forth in Subsection 54-20-105(3)(c).

(4) "Natural gas clean air program" means:

(a) an incentive or program to support the use of natural gas, including renewable

HB0107S01 compared with HB0107

natural gas, in the transportation sector:

(b) a program to improve air quality through the use of natural gas or renewable natural gas; and

(c) does not include any program under Section 54-4-13.4.

(5) A gas corporation proposing a natural gas clean air program for approval by the commission under Subsection (3) shall seek input from:

(a) the Division of Public Utilities;

(b) the Office of Consumer Services; and

(c) any person that files a request for notice with the commission.

(6) The commission may review the expenditure made by a gas corporation for a natural gas clean air program to determine if the gas corporation made the expenditure prudently in accordance with the purposes of the program.

(7) If the commission approves a gas corporation's request under Subsection (3), the remaining costs may be spread to other customers of the gas corporation.

(8) A natural gas clean air program under Section 54-4-13.1 shall be considered distinct and independent of Section 54-4-13.4.

Section 5. Section **54-4-13.4** is amended to read:

54-4-13.4. Natural gas fueling stations and facilities -- Recovery of expenditures for stations and facilities.

(1) The commission shall find that a gas corporation's expenditures for the construction, operation, and maintenance of natural gas fueling stations and appurtenant natural gas facilities [~~for use by the state, political subdivisions of the state, and the public~~] are in the public interest and are just and reasonable, if:

(a) the gas corporation's expenditures for the fueling stations and appurtenant facilities:

(i) are prudently incurred; and

(ii) do not exceed \$5,000,000 in any calendar year;

(b) the gas corporation shows that the estimated annual incremental increase in revenue related to the stations and facilities exceeds 50% of the annual revenue requirement of the stations and facilities; and

(c) the stations and facilities are in service and are being used and are useful.

(2) (a) A gas corporation may seek the recovery of expenditures under Subsection (1)

HB0107S01 compared with HB0107

through a mechanism designed to track and collect the expenditures between general rate cases.

(b) (i) The commission shall allow a gas corporation to recover, through an incremental surcharge to all of its rate classes, expenditures that the gas corporation incurs that are directly related to the construction, operation, and maintenance of the stations and facilities described in Subsection (1), reduced by revenues the gas corporation receives during the same time period directly attributable to the stations and facilities.

(ii) The commission shall assign a surcharge under Subsection (2)(b)(i) to each rate class based upon the pro rata share, approved by the commission, of the tariff revenue ordered in the gas corporation's most recent general rate case.

(iii) A gas corporation may file an application to adjust a surcharge under Subsection (2)(b)(i) as frequently as semiannually.

(iv) At the gas corporation's next general rate case, the commission shall include in base rates all expenditures that the gas corporation prudently incurs associated with a surcharge under Subsection (2)(b)(i).

Section 6. Section **54-20-102** is amended to read:

54-20-102. Definitions.

As used in this chapter:

(1) "Demand side management" means the same as that term is defined in Section 54-7-12.8.

(2) "Pilot program period" means a period of [5] five years, ~~beginning on January 1, 2017,~~ [6] beginning on January 1, 2019, during which the sustainable transportation and energy plan is effective[-];

(a) for a large-scale electric utility, beginning on January 1, 2017; or

(b) for a large-scale natural gas utility, beginning on January 1, ~~2020~~2019.

(3) "Sustainable transportation and energy plan" means the programs approved by the commission and undertaken by a large-scale electric utility or large-scale natural gas utility during the pilot program period, including:

~~{~~ (a) the electric vehicle incentive program described in Section 54-20-103;

~~{~~ (~~b~~) ~~a~~ natural gas vehicle ~~incentive~~ rate or natural gas clean air program described in Section 54-4-13.1;

[~~a~~] (b) the electric vehicle incentive program described in Section 54-20-103;

[~~b~~] (c) the clean coal technology program described in Section 54-20-104; and

HB0107S01 compared with HB0107

~~(c)~~ (d) the innovative technology programs described in Section 54-20-105.

Section 7. Section 54-20-105 is amended to read:

54-20-105. Innovative utility programs.

(1) The commission may authorize, subject to funding available under Subsection 54-7-12.8(6)(b)(ii)(B), a large-scale electric utility to implement programs that the commission determines are in the interest of large-scale electric utility customers to provide for the investigation, analysis, and implementation of:

(a) an economic development incentive rate;

(b) a solar generation incentive;

(c) a battery storage or electric grid related project;

(d) a commercial line extension pilot program;

(e) a program to curtail emissions from thermal generation plant in the Salt Lake non-attainment area during a non-attainment event as defined by the Division of Air Quality;

(f) an additional electric vehicle incentive program incremental to the program described in Section 54-20-103;

(g) an additional clean coal program incremental to the program described in Section 54-20-104; and

(h) any other technology program.

(2) The commission may review the expenditures made by a large-scale electric utility for a program described in Subsection (1) in order to determine if the large-scale electric utility made the expenditures prudently in accordance with the purposes of the program.

~~(2)3~~ (a) The commission may authorize a large-scale natural gas utility to fund and implement a program and fund programs that the commission determines is are in the public interest of large-scale natural gas utility customers to provide for the investigation, analysis, and implementation of:

(i) an economic development incentive rate;

(ii) research and development of other efficiency technologies;

(iii) an acquisition of commercial properties' nonresidential infrastructure behind the gas corporation's meter systems;

(iv) the development of communities that can reduce greenhouse gases and NOx emissions;

HB0107S01 compared with HB0107

- (v) a natural gas renewable energy project;
- (vi) a commercial line extension program; or
- (vii) any other technology program.

(b) ~~The~~A large-scale natural gas utility proposing a program under this Subsection (3) shall, before submitting the program to the commission for approval, seek input from:

- (i) the Division of Public Utilities;
- (ii) the Office of Consumer Services; and
- (iii) a person that files a request for notice with the commission.

(c) Upon commission approval, the commission may authorize the large-scale natural gas utility to allocate on an annual basis up to \$10,000,000 to ~~the~~a specific sustainable transportation and energy plan as described in Subsections (~~2~~3)(a)(i) through (vii) ~~above~~ and or a specific natural gas clean air program as provided in ~~Subsection~~Section 54-4-13.1~~(2)~~.

~~(c)~~d A large-scale natural gas utility shall establish a balancing account that includes:

(i) funds allocated for projects that have been approved by the commission under Subsection (~~2~~3)(~~b~~a); and

(ii) a carrying charge in an amount determined by the commission.

~~(d) A large-scale natural gas utility proposing a program under this section shall, before submitting the program to the commission for approval, seek input from:~~

- ~~(i) the Division of Public Utilities;~~
- ~~(ii) the Office of Consumer Services; and~~
- ~~(iii) a person that files a request for notice with the commission.~~

~~(2) (3) 4~~ The commission may review the expenditures made by a large-scale ~~electric utility or large-scale~~ natural gas utility for a program described in Subsection (~~1~~3) ~~or (2)~~ and approved by the commission in order to determine if the large-scale ~~electric utility or large-scale~~ natural gas utility made the expenditures prudently in accordance with the purposes of the program.

(~~3~~) (~~4~~5) The commission may authorize and establish funding for a conservation, efficiency, or new technology program in addition to the programs described in this chapter if the conservation, efficiency, or new technology program is cost-effective and in the public interest.

HB0107S01 compared with HB0107

Section 8. Section **54-20-107** is amended to read:

54-20-107. Other programs.

The commission may authorize a large-scale electric utility or a large-scale natural gas utility to establish a program in addition to the programs described in this chapter if the commission determines that the program is cost-effective and in the public interest.