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ELECTRICAL ENERGY AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Colin W. Jack
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

- defines term;
- requires the Public Service Commission (commission) to act in accordance with the state energy policy;
- requires the commission to make certain determinations before authorizing the early retirement of an electrical generation facility; and
- requires the commission to submit an annual report related to requests to retire electric generating units.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-303, as enacted by Laws of Utah 2023, Chapter 195

ENACTS:

54-1-2.1, as Utah Code Annotated 1953

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

Section 1. Section **54-1-2.1** is enacted to read:

54-1-2.1 . Alignment with state energy policy.

28 When exercising the powers granted in this title, the commission shall act in
29 accordance with the state energy policy provided in Title 79, Chapter 6, Part 3, State Energy
30 Policy, unless the state energy policy is inconsistent with specific provisions of this title.

31 Section 2. Section **79-6-303** is amended to read:

32 **79-6-303 . Legislative findings -- Forced retirement of electrical generation**
33 **facilities.**

34 (1) As used in this section:

35 (a) "Commission" means the Public Service Commission established in Section 54-1-1.

36 (b) "Dispatchable" means available for use on demand and generally available to be
37 delivered at a time and quantity of the operator's choosing.

38 (c) "Early retirement" means the closure of an electrical generation facility before
39 reaching the end of a normal operational lifespan when significant upgrades and
40 renovations to prolong the electrical generation facility's service are still financially
41 reasonable investments.

42 [(b)] (d) "Electrical generation facility" means a facility that generates electricity for
43 provision to customers.

44 [(e)] (e) "Forced retirement" means the closure of an electrical generation facility as a
45 result of a federal regulation that either directly mandates the closure of an electrical
46 generation facility or where the costs of compliance are so high as to effectively force
47 the closure of an electrical generation facility.

48 (f) "Nameplate capacity" means the sum of the maximum rated outputs of all electrical
49 generating equipment within a facility under specific conditions designated by the
50 manufacturer, as indicated on individual nameplates physically attached to the
51 equipment.

52 (g) "Plant factor" means the ratio of the actual annual electrical energy output of an
53 electrical generation facility compared to the potential annual electrical energy output
54 if the electrical generation facility operated at full capacity continuously for the entire
55 year.

56 [(d)] (h) "Qualified utility" means the same as that term is defined in Section 54-17-801.

57 [(e)] (i) "Reliable" means supporting a system generally able to provide a continuous
58 supply of electricity at the proper voltage and frequency and the resiliency to
59 withstand sudden or unexpected disturbances.

60 (j) "Replacement plan" means a plan by a qualified utility to replace the energy supply
61 of an existing electrical generation facility.

- 62 [(f)] (k) "Secure" means protected against disruption, tampering, and external
63 interference.
- 64 (2) The Legislature finds that:
- 65 (a) affordable, reliable, dispatchable, and secure energy resources are important to the
66 health, safety, and welfare of the state's citizens;
- 67 (b) the state has invested substantial resources in the development of affordable, reliable,
68 dispatchable, and secure energy resources within the state;
- 69 (c) the early retirement of an electrical generation facility that provides affordable,
70 reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare
71 of the state's citizens;
- 72 (d) the state's police powers, reserved to the state by the United States Constitution,
73 provide the state with sovereign authority to make and enforce laws for the protection
74 of the health, safety, and welfare of the state's citizens;
- 75 (e) the state has a duty to defend the production and supply of affordable, reliable,
76 dispatchable, and secure energy from external regulatory interference; and
- 77 (f) the state's sovereign authority with respect to the retirement of an electrical
78 generation facility for the protection of the health, safety, and welfare of the state's
79 citizens is primary and takes precedence over any attempt from an external regulatory
80 body to mandate, restrict, or influence the early retirement of an electrical generation
81 facility in the state.
- 82 (3) A qualified utility that receives notice of any federal regulation that may result in the
83 forced retirement of the qualified utility's electrical generation facility shall inform the
84 Office of the Attorney General of the regulation within 30 days after the receipt of
85 notice.
- 86 (4) After being informed as described in Subsection (3), the Office of the Attorney General
87 may take any action necessary to defend the interest of the state with respect to
88 electricity generation by the qualified utility, including filing an action in court or
89 participating in administrative proceedings.
- 90 (5) Before authorizing or approving a rate case, integrated resource plan, or other
91 submission that proposes the early retirement of an electrical generation facility, the
92 commission shall:
- 93 (a) consider the Legislature's findings in Subsection (2);
- 94 (b) determine, based on clear and convincing evidence, that the early retirement of an
95 electrical generation facility will not:

- 96 (i) create a material adverse effect on the provision of affordable, reliable,
97 dispatchable, and secure electricity to customers in the state;
- 98 (ii) create or exacerbate an existing shortage of available electricity to customers in
99 the state;
- 100 (iii) harm the qualified utility's ratepayers by causing the qualified utility to incur any
101 net incremental costs to be recovered from ratepayers that could be avoided by
102 continuing to operate the electric generating unit proposed for retirement in
103 compliance with applicable law; and
- 104 (iv) be undertaken as a result of any financial incentives or benefits for closure
105 related costs offered by any federal agency;
- 106 (c) determine whether the utility has proven a commitment and capability to have a
107 replacement plan operational before retiring the existing facility; and
- 108 (d) in making the determination under Subsection (b), consider the following
109 characteristics:
- 110 (i) plant factor;
111 (ii) nameplate capacity;
112 (iii) reliability;
113 (iv) dispatchability;
114 (v) affordability; and
115 (vi) the minimum reserve capacity requirement established by the utility's reliability
116 coordinator.
- 117 (6) The commission shall prepare and submit an annual report to the Public Utilities,
118 Energy, and Technology Interim Committee before November 30 of each year detailing:
- 119 (a) the number of received requests to retire electric generating units in the state,
120 including:
- 121 (i) the nameplate capacity of each of those units; and
122 (ii) whether the request was approved or denied by the commission;
- 123 (b) the impact of any commission-approved retirement of an electric generating unit on
124 the:
- 125 (i) state's generation fuel mix;
126 (ii) required capacity reserve margins for the qualified utility;
127 (iii) need for capacity additions or expansions at new or existing facilities as a result
128 of the retirement; and
129 (iv) need for additional purchase power or capacity reserve arrangements; and

130 (c) whether a retirement resulted in stranded costs for the ratepayer that will be
131 recovered by the utility through a surcharge or some other separate charge on the
132 customer bill.

133 Section 3. **Effective date.**

134 This bill takes effect on May 1, 2024.