

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:

▶ sets conditions for when the Public Service Commission may approve the early retirement of an electrical generation facility; and

▶ defines terms.

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

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

Section 1. Section **79-6-303** is amended to read:

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

(1) As used in this section:



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

30 (b) "Early retirement" means the premature closure of an electrical generation facility
31 before it reaches the end of its expected operational lifespan or designated service life.

32 [~~(b)~~] (c) "Electrical generation facility" means a facility that generates electricity for
33 provision to customers.

34 [~~(c)~~] (d) "Forced retirement" means the closure of an electrical generation facility as a
35 result of a federal regulation that either directly mandates the closure of an electrical generation
36 facility or where the costs of compliance are so high as to effectively force the closure of an
37 electrical generation facility.

38 (e) "Nameplate capacity" means the sum of the maximum rated outputs of all electrical
39 generating equipment within a facility under specific conditions designated by the
40 manufacturer, as indicated on individual nameplates physically attached to the equipment.

41 (f) "Plant factor" means the ratio of the actual annual electrical energy output of an
42 electrical generation facility compared to the potential annual electrical energy output if the
43 electrical generation facility operated at full capacity continuously for the entire year.

44 [~~(d)~~] (g) "Qualified utility" means the same as that term is defined in Section
45 [54-17-801](#).

46 [~~(e)~~] (h) "Reliable" means supporting a system generally able to provide a continuous
47 supply of electricity at the proper voltage and frequency and the resiliency to withstand sudden
48 or unexpected disturbances.

49 (i) "Replacement resource" means an electric generation facility that meets or exceeds
50 the existing facility in the following characteristics:

51 (i) plant factor;

52 (ii) nameplate capacity;

53 (iii) reliability;

54 (iv) dispatchability;

55 (v) affordability; and

56 (vi) maintains the minimum reserve capacity requirement established by the utility's
57 reliability coordinator.

58 [~~(f)~~] (j) "Secure" means protected against disruption, tampering, and external

59 interference.

60 (2) The Legislature finds that:

61 (a) affordable, reliable, dispatchable, and secure energy resources are important to the
62 health, safety, and welfare of the state's citizens;

63 (b) the state has invested substantial resources in the development of affordable,
64 reliable, dispatchable, and secure energy resources within the state;

65 (c) the early retirement of an electrical generation facility that provides affordable,
66 reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the
67 state's citizens;

68 (d) the state's police powers, reserved to the state by the United States Constitution,
69 provide the state with sovereign authority to make and enforce laws for the protection of the
70 health, safety, and welfare of the state's citizens;

71 (e) the state has a duty to defend the production and supply of affordable, reliable,
72 dispatchable, and secure energy from external regulatory interference; and

73 (f) the state's sovereign authority with respect to the retirement of an electrical
74 generation facility for the protection of the health, safety, and welfare of the state's citizens is
75 primary and takes precedence over any attempt from an external regulatory body to mandate,
76 restrict, or influence the early retirement of an electrical generation facility in the state.

77 (3) A qualified utility that receives notice of any federal regulation that may result in
78 the forced retirement of the qualified utility's electrical generation facility shall inform the
79 Office of the Attorney General of the regulation within 30 days after the receipt of notice.

80 (4) After being informed as described in Subsection (3), the Office of the Attorney
81 General may take any action necessary to defend the interest of the state with respect to
82 electricity generation by the qualified utility, including filing an action in court or participating
83 in administrative proceedings.

84 (5) Before authorizing or approving a rate case, integrated resource plan, or other
85 submission that proposes the early retirement of an electrical generation facility, the
86 commission shall consider the Legislature's findings in Subsection (2) and determine that the
87 early retirement of an electrical generation facility will not:

88 (a) create a material adverse effect on the provision of affordable, reliable,
89 dispatchable, and secure electricity to customers in the state;

90 (b) create a shortage of available electricity to customers in the state;

91 (c) harm the qualified utility's ratepayers by causing the qualified utility to incur any
92 net incremental costs to be recovered from ratepayers that could be avoided by continuing to
93 operate the electric generating unit proposed for retirement in compliance with applicable law;
94 and

95 (d) be undertaken as a result of any financial incentives or benefits offered by any
96 federal agency.

97 (6) (a) There is a rebuttable presumption against the early retirement of an electric
98 generation facility.

99 (b) A qualified utility may overcome the rebuttable presumption described in
100 Subsection (6)(a) by submitting evidence of a commitment and capability to have a
101 replacement resource operational before retiring the existing facility.

102 (7) The commission shall prepare and submit an annual report to the Public Utilities,
103 Energy, and Technology Interim Committee before November 30 of each year detailing:

104 (a) the number of received requests to retire electric generating units in the state,
105 including:

106 (i) the nameplate capacity of each of those units; and

107 (ii) whether the request was approved or denied by the commission;

108 (b) the impact of any commission-approved retirement of an electric generating unit on
109 the:

110 (i) state's generation fuel mix;

111 (ii) required capacity reserve margins for the qualified utility;

112 (iii) need for capacity additions or expansions at new or existing facilities as a result of
113 the retirement; and

114 (iv) need for additional purchase power or capacity reserve arrangements; and

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

117 **Section 2. Effective date.**

118 This bill takes effect on May 1, 2024.