

Representative Colin W. Jack proposes the following substitute bill:

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;
- ▶ establishes a rebuttable presumption against the early retirement of an electric 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:



26 AMENDS:

27 **79-6-303**, as enacted by Laws of Utah 2023, Chapter 195

28 ENACTS:

29 **54-1-2.1**, Utah Code Annotated 1953

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

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

33 **54-1-2.1. Alignment with state energy policy.**

34 When exercising the powers granted in this title, the commission shall act in accordance
35 with the state energy policy provided in Title 79, Chapter 6, Part 3, State Energy Policy.

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

37 **79-6-303. Legislative findings -- Forced retirement of electrical generation**
38 **facilities.**

39 (1) As used in this section:

40 (a) "Commission" means the Public Service Commission established in Section
41 54-1-1.

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

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

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

48 ~~[(c)]~~ (e) "Forced retirement" means the closure of an electrical generation facility as a
49 result of a federal regulation that either directly mandates the closure of an electrical generation
50 facility or where the costs of compliance are so high as to effectively force the closure of an
51 electrical generation facility.

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

55 (g) "Plant factor" means the ratio of the actual annual electrical energy output of an
56 electrical generation facility compared to the potential annual electrical energy output if the

57 electrical generation facility operated at full capacity continuously for the entire year.

58 [~~(e)~~] (h) "Qualified utility" means the same as that term is defined in Section
59 54-17-801.

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

63 (j) "Replacement resource" means an electric generation facility that is anticipated to
64 provide substantially the same contribution to a qualified utility's energy supply that an existing
65 facility provided, on average, during the preceding five-year period of time, when considering
66 the following characteristics:

67 (i) plant factor;

68 (ii) nameplate capacity;

69 (iii) reliability;

70 (iv) dispatchability;

71 (v) affordability; and

72 (vi) the minimum reserve capacity requirement established by the utility's reliability
73 coordinator.

74 [~~(f)~~] (k) "Secure" means protected against disruption, tampering, and external
75 interference.

76 (2) The Legislature finds that:

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

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

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

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

87 (e) the state has a duty to defend the production and supply of affordable, reliable,

88 dispatchable, and secure energy from external regulatory interference; and

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

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

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

100 (5) Before authorizing or approving a rate case, integrated resource plan, or other
101 submission that proposes the early retirement of an electrical generation facility, the
102 commission shall:

103 (a) consider the Legislature's findings in Subsection (2); and

104 (b) determine, based on clear and convincing evidence, that the early retirement of an
105 electrical generation facility will not:

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

108 (ii) create or exacerbate an existing shortage of available electricity to customers in the
109 state;

110 (iii) harm the qualified utility's ratepayers by causing the qualified utility to incur any
111 net incremental costs to be recovered from ratepayers that could be avoided by continuing to
112 operate the electric generating unit proposed for retirement in compliance with applicable law;
113 and

114 (iv) be undertaken as a result of any financial incentives or benefits offered by any
115 federal agency.

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

118 (b) A qualified utility may overcome the rebuttable presumption described in

119 Subsection (6)(a) by submitting evidence of a commitment and capability to have a
120 replacement resource operational before retiring the existing facility.

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

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

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

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

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

129 (i) state's generation fuel mix;

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

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

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

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

136 Section 3. **Effective date.**

137 This bill takes effect on May 1, 2024.