

HB0191S02 compared with HB0191S01

~~{deleted text}~~ shows text that was in HB0191S01 but was deleted in HB0191S02.

inserted text shows text that was not in HB0191S01 but was inserted into HB0191S02.

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 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

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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, 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.

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

Section 2. 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:

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

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

(c) "Early retirement" means the ~~premature~~ closure of an electrical generation facility before ~~it reaches~~ reaching the end of ~~its expected~~ a normal operational lifespan ~~for designated service life~~ when significant upgrades and renovations to prolong the electrical generation facility's service are still financially reasonable investments.

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

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

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

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

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

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

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

~~— (i) plant factor;~~

~~— (ii) nameplate capacity;~~

~~— (iii) reliability;~~

~~— (iv) dispatchability;~~

~~— (v) affordability; and~~

~~— (vi) the minimum reserve capacity requirement established by the utility's reliability coordinator}.~~

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

(2) The Legislature finds that:

(a) affordable, reliable, dispatchable, and secure energy resources are important to the

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health, safety, and welfare of the state's citizens;

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

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

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

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

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

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

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

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

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

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

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

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

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state;

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

and

(iv) be undertaken as a result of any financial incentives or benefits for closure related costs offered by any federal agency ~~};~~;

~~(f)(6) (a) There is a rebuttable presumption against the early retirement of an electric generation facility:~~

~~(b) A qualified utility may overcome the rebuttable presumption described in Subsection (6)(a) by submitting evidence of~~ c) determine whether the utility has proven a commitment and capability to have a replacement ~~resource~~ plan operational before retiring the existing facility; and

(d) in making the determination under Subsection (b), consider the following characteristics:

(i) plant factor;

(ii) nameplate capacity;

(iii) reliability;

(iv) dispatchability;

(v) affordability; and

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

~~(f)(7)(6)~~ The commission shall prepare and submit an annual report to the Public Utilities, Energy, and Technology Interim Committee before November 30 of each year detailing:

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

including:

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

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

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

the:

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- (i) state's generation fuel mix;
- (ii) required capacity reserve margins for the qualified utility;
- (iii) need for capacity additions or expansions at new or existing facilities as a result of the retirement; and
- (iv) need for additional purchase power or capacity reserve arrangements; and
- (c) whether a retirement resulted in stranded costs for the ratepayer that will be recovered by the utility through a surcharge or some other separate charge on the customer bill.

Section 3. **Effective date.**

This bill takes effect on May 1, 2024.