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Summary: Public Service Authority

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[3/11/2020](file:///p:\pprever\2019-20\1163_20200311.docx)

**A** **BILL**

TO AMEND CHAPTER 31, TITLE 58, RELATING TO THE PUBLIC SERVICE AUTHORITY, BY ADDING SECTION 58-31-15, BY AMENDING SECTION 58-31-20, BY ADDING ARTICLE 7, BY ADDING ARTICLE 9, AND BY ADDING ARTICLE 10, TO REMOVE THE CURRENT BOARD OF DIRECTORS OF THE PUBLIC SERVICE AUTHORITY AND ESTABLISH AN INTERIM BOARD, TO PROVIDE FOR A RETAIL RATES PROCESS, TO PROVIDE FOR LEGISLATIVE OVERSIGHT OF THE PUBLIC SERVICE AUTHORITY, TO PROVIDE FOR REFORM OF THE BOARD OF DIRECTORS OF THE PUBLIC SERVICE AUTHORITY AND ESTABLISH AN ELECTION PROCESS, TO ESTABLISH COMPETITIVE PROCUREMENT REQUIREMENTS FOR SOLAR RESOURCES, AND TO PROVIDE FOR RESOURCE PLANNING FOR THE PUBLIC SERVICE COMMISSION; TO AMEND SECTION 58-33-20, RELATING TO CERTAIN DEFINITIONS, TO INCORPORATE THE PUBLIC SERVICE AUTHORITY IN THE SITING ACT; AND TO AMEND SECTIONS 58-40-10(D), 58-41-10(4), AND 58-27-845(E), RELATING TO CERTAIN DEFINITIONS, TO SUBJECT THE PUBLIC SERVICE AUTHORITY TO THE ACT 62 CUSTOMER CHOICE, VOLUNTARY RENEWABLE ENERGY PROGRAM, COMMUNITY SOLAR, AND CUSTOMER ACCESS TO DATA PROVISIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 31, Title 58 of the 1976 Code is amended by adding:

“Section 58-31-15. (A) Immediately upon the appointment of a full new board of directors pursuant to subsection (B), the members of the board of directors of the Public Service Authority currently serving on the effective date of this section are hereby removed from service, and the powers and duties of the board are transferred to and devolved upon the new board of directors appointed pursuant to subsection (B).

(B)(1) Section 58‑31‑20, relating to the Public Service Authority board of directors, appointments, and term, is suspended until June 30, 2023. There is established a new interim board of directors of the Public Service Authority, to be composed of:

(a) one member appointed by the President of the Senate;

(b) one member appointed by the Speaker of the House of Representatives;

(c) one member appointed by the Chairman of the Senate Finance Committee;

(d) one member appointed by the Chairman of the Senate Judiciary Committee;

(e) one member appointed by the Chairman of the House of Representatives Ways and Means Committee;

(f) one member appointed by the Chairman of the House of Representatives Labor, Commerce, and Industry Committee; and

(g) one member appointed by the Governor.

(2) Each member must have at least a baccalaureate degree and experience in at least one of the following: energy issues, water and wastewater issues, finance issues, accounting, engineering, or law. The board shall meet as soon as practical and elect a chairman and other officers from its membership. Vacancies must be filled in the manner of the original appointment.

(C) Unless extended by the General Assembly, the board established pursuant to subsection (B) shall serve until June 30, 2023, or until a full board is elected and qualified pursuant to Chapter 31, Title 58, whichever is later. The term of office for each board member shall be suspended as of the date of removal pursuant to subsection (A) until a new member of the board is elected to that seat pursuant to Chapter 31, Title 58, after June 30, 2023. Initial terms of the new members of the board of directors shall be the unexpired term of the seat to which they are elected.

(D) Notwithstanding any other provision of law, the board established pursuant to subsection (B) is authorized to develop operational, personnel, and related policies it deems necessary to ensure that the Public Service Authority operates within the reform plan laid out in statute. The policies that the board develops may be across all operations of the Public Service Authority, including, but not limited to, administration, resource distribution, contracts, litigation, and finances.

(E) The board is solely responsible for the selection, periodic evaluation, and retention or termination of the Public Service Authority’s chief executive officer (CEO).

(F) The board shall ensure that the Public Service Authority has a qualified and appropriate executive management with the experience and competence necessary to lead the authority.

(G) The interim board of directors shall make an annual report to the Senate Finance Committee, Senate Judiciary Committee, House of Representatives Ways and Means Committee, and House of Representatives Judiciary Committee for each of the three years that the interim board is in place. The report must include updates and material information related to the benchmarks and goals identified in the Public Service Authority’s reform proposal pursuant to Act 95 of 2019 and any other information requested by the individual committees.

(H) The interim board of directors will undertake a thorough review of the Public Service Authority to include operations, structure, and resource planning. The result of this review should be an implementation plan for moving forward.

(I) The interim board will undertake a process to determine the actual value of all of Santee Cooper’s assets. Responsibilities outlined in subsections (H) and (I) shall be funded by the Public Service Authority’s one percent annual payment to the State.

(J) For the duration of the interim board of directors’ service, there shall be established a special Senate committee and special House of Representatives committee. The special Senate committee shall be comprised of three members of the Senate Finance Committee and three members of the Senate Judiciary Committee, appointed by the respective committee chairs. The special House of Representatives committee shall be comprised of three members of the House of Representatives Ways and Means Committee and three members of the House of Representatives Labor, Commerce, and Industry Committee, appointed by the respective committee chairs. These special committees will be tasked with providing input, oversight, and direction to the interim board of directors.”

SECTION 2. Section 58-31-20 of the 1976 Code is amended to read:

“Section 58‑31‑20. (A) Beginning on June 30, 2023, the ~~The~~ Public Service Authority ~~consists~~ shall consist of a board of ~~twelve~~ seven directors, one who resides in each of the seven congressional districts, who reside in South Carolina and who have the qualifications stated in this section, as determined by the State Regulation of Public Utilities Review Committee pursuant to Section 58‑3‑530(14), before being ~~appointed by the Governor with the advice and consent of the Senate~~ screened and elected by the General Assembly ~~as follows: one from each congressional district of the State; one from each of the counties of Horry, Berkeley, and Georgetown who reside in authority territory and are customers of the authority; and two from the State at large, one of whom must be chairman~~. ~~Two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative.~~ The initial appointments for board seats representing the odd‑numbered congressional seats shall be vacated on June 30, 2026, and the initial appointments for the board seats representing the even-numbered congressional seats shall be vacated on June 30, 2028. The vacated seats and any vacant seat thereafter shall be screened in the same manner as prescribed by Section 58‑3‑560. A director shall not serve as an employee or board member of an electric cooperative during his term as a director Each director shall serve for a term of ~~seven~~ five years, except as provided in this section. At the expiration of the term of each director and of each succeeding director, ~~the Governor, with the advice and consent of the Senate, must appoint~~ the General Assembly shall elect a successor, who shall hold office for a term of ~~seven~~ five years or until his successor has been appointed and qualified. In the event of a director vacancy due to death, resignation, or otherwise, the ~~Governor must appoint~~ General Assembly shall elect the director’s successor, ~~with the advice and consent of the Senate,~~ and the successor‑director shall hold office for the unexpired term. ~~A director may not receive a salary for services as director until the authority is in funds, but each~~ Each director must be paid his actual expense in the performance of his duties~~, the actual expense to be advanced from the contingent fund of the Governor until the time the Public Service Authority is in funds, at which time the contingent fund must be reimbursed~~. ~~After the Public Service Authority is in funds, the~~ The compensation and expenses of each member of the board must be paid from ~~these~~ Public Service Authority funds~~, and the compensation and expenses must be fixed by the advisory board established in this section~~. Members of the board of directors may be removed for cause, pursuant to Section 1‑3‑240(C), by the Governor of the State, the advisory board, or a majority thereof. A member of the General Assembly of the State of South Carolina or a member of his immediate family is not eligible for appointment as Director of the Public Service Authority ~~during the term of his office~~ while the member is serving in the General Assembly, nor shall a member of the General Assembly or a member of his immediate family be appointed to the authority for a period of four years after the member either:

(1) ceases to be a member of the General Assembly; or

(2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15. ~~No more than two members from the same county may serve as directors at any time.~~

(B) Candidates for appointment to the board must be screened by the State Regulation of Public Utilities Review Committee and, prior to ~~confirmation by the Senate~~ being elected by the General Assembly, must be found qualified by meeting the minimum requirements contained in subsection (C). The review committee must submit a written report to the ~~Clerk~~ Clerks of the House of Representatives and Senate setting forth its findings as to the qualifications of each candidate. A candidate must not serve on the board, even in an interim capacity, until he is screened and found qualified by the State Regulation of Public Utilities Review Committee.

(C) Each member must possess abilities and experience that are generally found among directors of energy utilities serving this State and that allow him to make valuable contributions to the conduct of the authority’s business. These abilities include substantial business skills and experience, but are not limited to:

(1) general knowledge of the history, purpose, and operations of the Public Service Authority and the responsibilities of being a director of the authority;

(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the Public Service Authority;

(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations including, but not limited to, Chapter 4 of Title 30 as they relate to the activities and affairs of the Public Service Authority; and

(4) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of the Public Service Authority.

(D) In addition to the qualifications provided in subsection (C), each member of the board of directors of the Public Service Authority must have the following qualifications:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; and

(2) a background of substantial duration and an expertise in at least one of the following:

(a) energy issues;

(b) water and wastewater issues;

(c) finance, economics, and statistics;

(d) accounting;

(e) engineering; or

(f) law.

(E) ~~For the assistance of the board of directors of the Public Service Authority, there is hereby established an advisory board to be known as the advisory board of the South Carolina Public Service Authority, to be composed of the Governor of the State, the Attorney General, the State Treasurer, the Comptroller General, and the Secretary of State, as ex officio members, who must serve without compensation other than necessary traveling expenses. The advisory board must perform any duties imposed on it pursuant to this chapter, and must consult and advise with the board of directors on any and all matters which by the board of directors may be referred to the advisory board. The board of directors must make annual reports to the advisory board, which reports must be submitted to the General Assembly by the Governor, in which full information as to all of the acts of said board of directors shall be given, together with financial statement and full information as to the work of the authority. On July first of each year, the advisory board must designate a certified public accountant or accountants, resident in the State, for the purpose of making a complete audit of the affairs of the authority, which must be filed with the annual report of the board of directors. The Public Service Authority must submit the audit to the General Assembly~~ In screening candidates to the authority, the State Regulation of Public Utilities Review Committee shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographic and political balance of the appointments and shall strive to ensure that the membership of the authority will represent, to the greatest extent possible, all segments of the population of the State.

(F) A member of the Public Service Authority board of directors may not have a business relationship with the Public Service Authority, an electric cooperative, or Central Electric Cooperative that is distinct from or in addition to the member’s service on the board of directors.

(G) The Public Service Authority must provide live‑streamed coverage whenever practicable of all meetings of the committees and board of directors to ensure transparency and access for the public. Telephonic meetings may be live‑streamed through use of only audio if no board members are physically present at the telephonic meetings. The meetings shall be recorded and archived and made available on the Public Service Authority’s website along with any agendas and any documents presented during the open portion of meetings. If a meeting cannot be live‑streamed, then the authority must make transcripts available on the authority’s website within fifteen business days.

(H) The board of directors must periodically conduct employee surveys to assess and improve Santee Cooper’s leadership and work climate.

(I) Among other things, board members are mandated to prioritize the needs of customers, ensure the financial integrity of the Public Service Authority, and report to the Oversight Committee on the reform items outlined in Act 95 of 2019.”

SECTION 3. Chapter 31, Title 58 of the 1976 Code is amended by adding:

“ARTICLE 7

Retail Rates Process

Section 58‑31‑710. (A) Prior to creating or revising any of its board‑approved retail rate schedules for residential, lighting, commercial, or industrial customers in a manner that results in a rate increase, the Public Service Authority, through resolution of its board of directors or otherwise, shall adopt a process that shall include the following:

(1) The authority shall provide notice to customers who would be affected by a rate increase at least sixty days before the board of directors’ vote on a proposed rate increase.

(a) The notice required by this item must be given in the following forms:

(i) by first‑class United States mail addressed to the customer’s billing address in the authority’s records at the time of the notice or, for customers who have elected paperless billing, by the same means of communication used for providing these customers paperless billing;

(ii) by advertisements to be published in newspapers of general circulation within the service territory of the authority;

(iii) by way of Santee Cooper’s regularly maintained website, including a conspicuous portal or link accessible from the website’s landing page; and

(iv) by issuance of a news release to local news outlets.

(b) The notice of a proposed rate increase required by this item shall contain the following information:

(i) the date, time, and location of all public meetings;

(ii) the date, time, and location of the meeting at which a proposed rate increase is expected to be submitted to the board of directors for its consideration;

(iii) the date, time, and location of the meeting at which the board of directors is expected to vote on a proposed rate increase;

(iv) a notification to customers of their right to:

(A) review the proposed rate schedules;

(B) appear and speak in person concerning the proposed rates at public meetings or specified meetings of the board of directors; and

(C) submit written comments;

(v) the means by which customers can submit written comments, including the email and physical addresses to which written comments may be submitted, and the deadline for submitting such comments; and

(vi) the means by which customers can access and review a written report containing the proposal of proposed rate adjustments, any rate study, or other documentation developed by the authority in support of the rate increase, as these materials become available.

(c) Contemporaneously with notice to customers, the authority shall provide notice of a proposed rate increase to the Office of Regulatory Staff.

(d) A rate adjustment that does not result in a proposed rate increase does not require notice pursuant to this subsection.

(e) Customers whose rates would not increase are not entitled to notice pursuant to this subsection.

(2) In addition to the requirements of notice set forth above, the authority shall provide for the following:

(a) a comprehensive review of the authority’s rate structure and rates, consistent with the provisions of Chapter 31, Title 58 and the Public Service Authority’s bond covenants concerning the Public Service Authority’s revenue requirements, provided that:

(i) management may engage consultants as necessary to assist the authority in completing this review; and

(ii) this review should include such subjects as the authority’s revenue requirements, a cost of service analysis, and rate/tariff design;

(b) a written report of management’s recommendations concerning proposed rate adjustments;

(c) an opportunity for customers who would be affected by a rate increase, in advance of the board of directors’ consideration and determination of rates, to review the proposed rate schedules and written findings and analysis of employees and consultants retained by the authority that support the proposed rate increase, provided that:

(i) the authority shall also provide customers who would be affected by a rate increase access to proposed rate schedules and written findings and analysis of employees and consultants retained by the authority that support the proposed rate increase, such materials to be made available at a physical location, at public meetings, and via Santee Cooper’s website; and

(ii) customers who would be affected by a rate increase may submit written comments to be considered by the board of directors before any vote concerning a proposed rate increase;

(d) public meetings, to be held at locations convenient for customers who will be affected by a rate increase within the authority’s service territory, provided that:

(i) the authority shall convene at least two public meetings at a minimum of two locations within its service territory for the purpose of presenting the proposed rate increase and relevant information regarding the same to customers who would be affected by the rate increase for their information and comment;

(ii) customers who would be affected by the rate increase may appear and speak in person at public meetings and direct comments and inquiries about the rate increase to representatives of the authority;

(iii) at least one representative of the authority’s staff or management and at least one member of the board of directors shall attend each public meeting;

(iv) the authority shall cause a transcript of all such meetings to be prepared and maintained as a public record and for consideration by the board of directors prior to its consideration and vote on a proposed rate increase; and

(v) the contents of this subitem must not be construed in such a manner as to prevent the authority from holding additional public meetings, from holding additional meetings with customers as may be scheduled from time to time at the convenience of the authority and the customers, or from having additional representatives of staff, management, or the board of directors in attendance at such meetings;

(e) submission by the Office of Regulatory Staff of written comments and supporting documentation in the same manner as customers;

(f) a meeting of the board of directors, separate from and at least thirty days prior to the board of directors’ scheduled vote on a proposed rate increase, at which the board of directors shall receive management’s recommendation concerning the proposed rate increase, the proposed rate schedules, documentation supporting the same, written comments, and transcripts of the public meetings, provided that:

(i) at this meeting, customers who would be affected by a rate increase shall be entitled to appear and speak in person for a reasonable amount of time to offer their comments directly to the board of directors;

(ii) customer comments received by the authority prior to this meeting and transcripts of the public meetings shall be submitted to the board of directors for its consideration in the determination of rates;

(iii) submissions from the Office of Regulatory Staff shall be provided to the board of directors for its consideration in the determination of rates; and

(iv) the authority shall cause a transcript of this meeting to be prepared and maintained as a public record; and

(g) a meeting at which the board of directors votes on a proposed rate increase, following notice as set forth in item (1) and completion of the process implemented by the board of directors pursuant to item (2).

(B) Rates shall become effective no earlier than sixty days after the board votes on the proposed rate increases.

(C) The board of directors’ action pursuant to this section and its approval of rates are subject to the same standards and remedies pursuant to Sections 58‑31‑55, 58‑31‑56, and 58‑31‑57, provided that nothing contained in this section may be construed to limit or derogate from:

(1) the board of directors’ duties and powers as established in Chapter 31, Title 58; and

(2) the state’s covenants as provided in Sections 58‑31‑30 and 58‑31‑360, and those covenants are hereby reaffirmed.

(D) However, the Public Service Authority may place such increased rates and charges into effect on an interim basis under emergency circumstances, such as to avoid default of its obligations and to ensure the proper maintenance of its system. Said increased rates and charges shall be subject to prospective rate adjustment in accordance with the terms of this section, provided further that the Public Service Authority may implement experimental rates on an interim basis for the purpose of developing improved rate offerings for customers. These experimental rates will be enacted for no longer than five years and will apply to no more than five percent of the affected customer class.

(E) Appeals of decisions by the board of directors to approve an increase in rates shall be a direct appeal to the South Carolina Supreme Court. However, the board of directors must be the entity that implements the rates.

Section 58‑31‑720. The board of directors shall approve and adhere to a set of pricing principles.

Section 58‑31‑730. The Public Service Authority shall submit to the Office of Regulatory Staff a pricing report each year, and its report must include an analysis of the adherence to the pricing principles required in Section 58‑31‑720, the current and projected electric customer pricing and a comparison of pricing to inflation, and to other utilities, and an analysis of the rates by customer classes and the fair allocation of costs among customer classes. A copy of this annual report must be provided to the Advisory Board, the Oversight Commission, and the Consumer Advocate. If the Public Service Authority’s price of electricity is projected to rise above the rate of inflation, then it must include in its annual pricing report a detailed explanation of all cost‑saving efforts being undertaken and planned to mitigate costs. After its review, the Office of Regulatory Staff shall issue comments on the Public Service Authority’s annual pricing report.”

SECTION 4. Chapter 31, Title 58 of the 1976 Code is amended by adding:

“ARTICLE 9

South Carolina Public Service Authority Review and Oversight Commission

Section 58‑31‑910. (A) There is hereby established a commission to be known as the ‘South Carolina Public Service Authority Review and Oversight Commission’, hereinafter referred to as the commission, which must exercise the powers and fulfill the duties described in this article.

(B) The commission is composed of the following eight members:

(1) from the Senate:

(a) the Chairman of the Finance Committee or his designee;

(b) the Chairman of the Judiciary Committee or his designee; and

(c) two members appointed by the President, one member from the majority party and the other from the minority party; and

(2) from the House of Representatives:

(a) the Chairman of the Ways and Means Committee or his designee;

(b) the Chairman of the Labor, Commerce and Industry Committee or his designee; and

(c) two members of the House of Representatives appointed by the Speaker of the House of Representatives, one member from the majority party and the other from the minority party.

(C) In appointments to the commission, race, gender, and other demographic factors, such as residence in rural or urban areas, must be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

(D) The commission must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. A quorum consists of six members.

Section 58‑31‑920. The commission has the following power and duties:

(1)(a) In coordination with the Office of Regulatory Staff, the commission shall conduct an annual oversight review of the authority and its operations in compliance with the following standards:

(i) the commission shall conduct performance reviews of the board of directors and the president/CEO; and

(ii) the oversight reviews must consider whether the authority is improving the quality of life for South Carolinians by providing low cost, reliable power in this State in an efficient, effective manner in accordance with all applicable laws and regulations.

(b) Reviews conducted pursuant to this article shall include, but are not limited to, the Public Service Authority’s:

(1) price commitment under its reform plan developed under Act 95 of 2019;

(2) transmission and distribution reliability, safety, and customer service;

(3) planned or ongoing capital projects and resource plans;

(4) economic development activities;

(5) lake and water system management;

(6) financial reports including operating budgets, outstanding debt, existing and proposed debt issuances, debt defeasance, debt/equity ratios, and bond ratings; and

(7) executive organizational structure, succession planning, and compensation, to include retirement compensation.

(2) With input from the Office of Regulatory Staff, the commission shall review and approve or disapprove any contract that exceeds ten years in length.

(3) The Public Service Authority board of directors and president/CEO have a duty to disclose material operational issues that impact customer rates to the commission.

(4) The commission must provide an opportunity for all classes of customers and interested parties to provide comment to the commission.

(5) The commission must provide a written report of each review, publish the review in the journals of the House of Representatives and Senate, and make publicly available and transmit such to the Governor, the Advisory Board, and the Public Service Authority Board of Directors.

Section 58‑31‑930. State agencies must cooperate fully with commission requests for assistance in carrying out the commission’s responsibilities and duties as established in this article.

Section 58‑31‑940. The commission shall use clerical and professional employees of the General Assembly for its staff, who must be made available to the commission. The commission may employ or retain other professional staff if it determines that additional personnel are necessary to fulfill the duties and responsibilities as provided in this article and as may be funded in the legislative appropriation of the annual general appropriations act. The Public Service Authority shall pay all reasonable expenses associated with the commission’s activities.”

SECTION 5. Chapter 31, Title 58 of the 1976 Code is amended by adding:

“ARTICLE 10

Public Service Commission Review of the Public Service Authority’s Reform Plan

Section 58-31-1000. (A) ‘Reform plan’ means the reform plan submitted by the Public Service Authority to the General Assembly pursuant to Act 95 of 2019 in order to meet its future capacity and energy needs.

(B) Within ninety days of the enactment of this section, the South Carolina Public Service Authority shall submit its reform plan to the commission as an integrated resource plan, for compliance with the standards applicable under Section 58‑37‑40, in addition to the requirements herein:

(1) Within thirty days of the effective date of this section, the Public Service Authority, in consultation with the Office of Regulatory Staff, shall develop a public process that allows input from other stakeholders, to review, and update as necessary, the Public Service Authority’s reform plan.

(2) Following such public process, the Public Service Authority will conform the reform plan to the requirements of Section 58‑37‑40 and submit the revised reform plan as an integrated resource plan to the commission within ninety days along with all other documentation required pursuant to Section 58‑37‑40. The revised reform plan shall enumerate the cost of various resource portfolios over a twenty‑year study period and, by comparison on a net present value basis, identify the most cost‑effective and least ratepayer risk resource portfolio to meet the Public Service Authority’s total capacity and energy requirements while maintaining safe and reliable electric service.

(3) Upon receipt of the Public Service Authority’s integrated resource plan, the commission shall open a docket and establish a regulatory proceeding pursuant to Section 58‑37‑40 to review the integrated resource plan. The commission shall also review and evaluate the integrated resource plan along with long-term power supply alternatives and various resource portfolios over a twenty‐year study period and, by comparison on a net present value basis, identify the most cost‐effective and lowest ratepayer risk resource portfolio to meet the Public Service Authority’s total capacity and total energy requirements while maintaining safe and reliable electric service.

(4) Absent commission acceptance of an integrated resource plan containing a new major utility facility need and absent approval of a new major utility facility as required under Section 58‑33‑20, the Public Service Authority is prohibited from constructing or acquiring any such major utility facility or incurring long-term customer obligations associated with any such facility. The Public Service Authority and the commission shall take administrative or judicial notice of any recommendations that may result from any Electricity Market Reform Measures Study Committee or other joint boards or study committees investigating the probable needs for meeting future energy requirements established by state law.

(5) The commission’s evaluation shall include, but not be limited to:

(a) evaluating the cost‑effectiveness and ratepayer risk of self‑build generation and transmission options compared with various long term power supply alternatives including power purchase agreements; competitive procurement of renewable energy; joint dispatch agreements; market purchases from an existing regional transmission organization; joining or creating a new regional transmission organization; or any combination thereof, as well as demand response and energy efficiency; distributed generation, customer‑sited resources; or any combination thereof. In evaluating the cost‑effectiveness of long-term power supply alternatives, the commission shall strive to reduce the risk to ratepayers associated with self‑build generation or transmission options while maintaining safe and reliable electric service; and

(b) an analysis of any potential cost savings that might accrue to ratepayers from the retirement of remaining coal generation assets.

(6)(a) Prior to approving an integrated resource plan that includes any generation or transmission self‑build options, the Public Service Authority must prove by a preponderance of the evidence that the self‑build generation or transmission option constitutes a more cost‑effective means for serving direct‑serve and wholesale customers than other available alternatives, and provides less ratepayer risk while maintaining safe and reliable electric service than other power supply alternatives.

(b) The commission shall consider such analysis and its determination in acting upon any petition by the Public Service Authority utility for construction of a major utility facility or approval of long-term purchases of power from a major utility facility.

(7) During the pendency of the regulatory proceeding conducted pursuant to Section 58‑37‑40, the Public Service Authority may not begin construction, purchase, enter into any power purchase agreements, or lease any facility for the generation or transmission of electricity equal to or larger than seventy‑five megawatts to be directly or indirectly used for the furnishing of electric service. Nothing in this section prohibits the Public Service Authority from:

(a) implementing an enhanced hedging strategy for natural gas as contained in the reform plan;

(b) implementing phased retirement of Winyah Generating Station pursuant to the reform plan and purchasing capacity to ensure reliable supply to customers during the pendency of the proceeding; or

(c) implementing the solar resource acquisition identified within the reform plan to procure renewable energy resources through a commission‑approved, independently administered competitive solicitation process as required under Section 58‑31‑1010.

(8) In acting upon any petition by the Public Service Authority for the construction of any facility for the generation of electricity or approval of other long-term means of procuring energy, the commission shall take into account the Public Service Authority’s arrangements with other electric utilities for interchange of power; purchase of power; and other alternative methods for providing reliable, efficient, and economical electric service.

(9) As a condition for approving an application to self‑build generation, the Public Service Authority shall, in addition to the requirements of Articles 1, 3, 5, and 7 of Chapter 33, Title 58, file an estimate of construction costs in such detail as the commission may require. No certificate shall be granted unless the commission has approved the estimated construction costs and made a finding that construction will be consistent with the commission’s plan for expansion of electric generating capacity. A certificate for the construction of a self‑build generation shall be granted only if the Public Service Authority demonstrates and the commission finds that energy efficiency measures; demand‑side management; renewable energy resource generation; alternative sources of supply, or any combination thereof, would not establish or maintain a more cost‑effective and reliable generation system and that the construction and operation of the facility is in the public interest. In making its determination, the commission shall consider resource and fuel diversity and reasonably anticipated future operating costs.

(10) Upon the motion of a party within an integrated resource planning or siting proceeding, the commission may consider and adopt a competitive solicitation process for the procurement of resource needs to be served by major utility facilities identified in the reform plan, if the commission determines that such process is in the public interest. In order to promote technology‑neutral competition, such solicitation process shall characterize the resource need, and invite and evaluate proposals, in a technology‑neutral manner that enables the broadest range of resources, or combinations of resources, to reliably serve the need.

Section 58‑31‑1010. (A) The Public Service Authority shall file for commission approval of a program for the competitive procurement of energy, capacity, and environmental attributes from renewable energy facilities with the purpose of achieving:

(1) at least one thousand megawatts of installed renewable energy capacity over January 1, 2020 contracted levels by December 31, 2023;

(2) at least five hundred megawatts of installed renewable energy capacity over January 1, 2024 contracted levels by December 31, 2031, and at least two hundred megawatts of installed energy storage by December 31, 2031.

(B) Renewable energy facilities eligible to participate in a competitive procurement shall include those facilities that use renewable energy resources identified in Section 58‑39‑120(F) but shall be limited to facilities with a nameplate capacity rating of seventy-five megawatts or less. A renewable energy facility with an existing contract to sell its output to the Public Service Authority may participate in a competitive procurement and be awarded a new contract provided that it pays any damages due to the Public Service Authority in the event of early termination of the existing contract. The nameplate capacity of an existing renewable energy facility that is selected in a competitive procurement will be considered ‘contracted’ by January 1, 2020 for the purposes of subsection (A).

(C) The Public Service Authority may implement the aggregate competitive procurement requirements set forth in subsection (A) of this section and may satisfy such requirements for the procurement of renewable energy capacity to be supplied by renewable energy facilities through either of the following:

(1) the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities owned and operated by third parties that commit to allow the Public Service Authority to dispatch, operate, and control such renewable energy facilities; or

(2) renewable energy facilities to be acquired from third parties and subsequently owned and operated by the Public Service Authority.

(D) Procured renewable energy capacity, as provided for in this section, shall be subject to the following limitations:

(1) The Public Service Authority shall submit to the commission for approval and make publicly available at sixty days prior to each competitive procurement solicitation a pro forma contract to be utilized for the purpose of informing market participants of terms and conditions of the competitive procurement. Each pro forma contract shall define limits and compensation for resource dispatch and curtailments. The pro forma contract will provide at least two options for compensation to facilities owned and operated by third parties, including a production‑based compensation option in dollars per kilowatt‑hour and a capacity‑based compensation option in dollars per kilowatt‑month. The pro forma contract shall be for a term of ten years.

(2) After bids are submitted and evaluated, winning bids will be selected based upon applicable price and non‑price criteria. Evaluation criteria shall include preference for bids submitted by resident bidders. Proof of resident‑status shall be furnished by the bidder upon submission of the bid. A selected renewable energy facility shall be eligible to enter into a power purchase agreement with the South Carolina Public Service Authority at the bid price submitted by the renewable energy facility. To the extent that the Public Service Authority fails to award contracts to renewable energy facilities with an aggregate nameplate capacity equal to the capacity requested in the applicable competitive procurement, other small power producers shall be eligible to enter into twenty‑year contracts with the Public Service Authority at a price equal to the highest winning bid price in such procurement, which shall be deemed to be the Public Service Authority’s avoided cost for energy and capacity for that procurement period. Such contracts shall be available to small power producers up to the unfilled amount of the procurement on a first come, first served basis. The commission may establish additional non‑price criteria, including, but not limited to, project maturity requirements, applicable to small power producers that request a contract for the unfilled amount of the procurement. Such non‑price criteria shall be, to the extent practicable, consistent with the non‑price criteria applied to the applicable competitive procurement.

(3) Other small power producers shall be eligible to enter into contracts for the sale of energy to the Public Service Authority at its avoided energy rate, as determined by the commission. A small power producer entering into such a contract shall be eligible to bid into future competitive solicitations and, if successful, to replace its existing energy contract with the Public Service Authority with a contract awarded pursuant to the competitive solicitation.

(E) The competitive procurement of renewable energy capacity established pursuant to this section shall be independently administered by a third‑party entity to be approved by the commission. The third‑party entity shall develop and publish the methodology used to evaluate responses received pursuant to a competitive procurement solicitation and to ensure that all responses are treated equitably. All reasonable and prudent administrative and related expenses incurred to implement this subsection shall be recovered from market participants through administrative fees levied upon those that participate in the competitive bidding process, as approved by the commission.

(F) The Public Service Authority shall be authorized to recover the costs of all purchases of energy, capacity, and environmental and renewable attributes from third‑party renewable energy facilities through an annual rider approved by the commission and reviewed annually. The authorized revenue for any renewable energy facilities owned by the Public Service Authority shall be calculated on a market basis in lieu of cost‑of‑service based recovery, using data from the applicable competitive procurement to determine the market price in accordance with the methodology established by the commission pursuant to subsection (E) of this section.

(G) The commission shall adopt rules to implement the requirements of this section, as follows:

(1) to provide for the design, administration, and commission oversight of the competitive procurement program consistent with this section; and

(2) to establish a methodology to allow an electric public utility to recover its costs pursuant to subsection (G).”

SECTION 6. Section 58-33-20 of the 1976 Code is amended to read:

“Section 58-33-20. The following words, when used in this chapter, has the following meanings, unless otherwise clearly apparent from the context:

(1) The term ‘commission’ means Public Service Commission.

(2) The term ‘major utility facility’ means:

(a) electric generating plant and associated facilities designed for, or capable of, operation at a capacity of more than seventy‑five megawatts.

(b) an electric transmission line and associated facilities of a designed operating voltage of one hundred twenty‑five kilovolts or more; provided, however, that the words ‘major utility facility’ shall not include electric distribution lines and associated facilities~~, nor shall the words ‘major utility facility’ include electric transmission lines and associated facilities leased to and operated by (or which upon completion of construction are to be leased to and operated by) the South Carolina Public Service Authority~~.

(3) The term ‘commence to construct’ means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying or changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(4) The term ‘municipality’ means any county or municipality within this State.

(5) The term ‘person’ includes any individual, group, firm, partnership, corporation, cooperative, association, government subdivision, government agency, local government, municipality, any other organization, or any combination of any of the foregoing~~, but shall not include the South Carolina Public Service Authority~~.

(6) The term ‘public utility’ or ‘utility’ means any person engaged in the generating, distributing, sale, delivery, or furnishing of electricity for public use. This includes the Public Service Authority.

(7) The term ‘land’ means any real estate or any estate or interest therein, including water and riparian rights, regardless of the use to which it is devoted.

(8) The term ‘certificate’ means a certificate of environmental compatibility and public convenience and necessity.

(9) The term ‘regulatory staff’ means the executive director or the executive director and the employees of the Office of Regulatory Staff.”

SECTION 7. Section 58-37-40 of the 1976 Code is amended to read:

“Section 58-37-40. (A) Electrical utilities, electric cooperatives, municipally owned electric utilities, and the South Carolina Public Service Authority must each prepare an integrated resource plan. An integrated resource plan must be prepared and submitted at least every three years. Nothing in this section may be construed as requiring interstate natural gas companies whose rates and services are regulated only by the federal government or gas utilities subject to the jurisdiction of the commission to prepare and submit an integrated resource plan.

(1) Each electrical utility must submit its integrated resource plan to the commission. The integrated resource plan must be posted on the electrical utility’s website and on the commission’s website.

(2) Electric cooperatives and municipally owned electric utilities shall each submit an integrated resource plan to the State Energy Office. Each integrated resource plan must be posted on the State Energy Office’s website. If an electric cooperative or municipally owned utility has a website, its integrated resource plan must also be posted on its website. For distribution, electric cooperatives that are members of a cooperative that provides wholesale service, the integrated resource plan may be coordinated and consolidated into a single plan provided that nonshared resources or programs of individual distribution cooperatives are highlighted. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to a distribution or wholesale cooperative or a municipally owned electric utility as a result of the cooperative or the municipally owned electric utility not owning or operating generation resources, the plan may state that fact or refer to the plan of the wholesale power generator. For purposes of this section, a wholesale power generator does not include a municipally created joint agency if that joint agency receives at least seventy‑five percent of its electricity from a generating facility owned in partnership with an electrical utility and that electrical utility:

(a) generally serves the area in which the joint agency’s members are located; and

(b) is responsible for dispatching the capacity and output of the generated electricity.

(3) The South Carolina Public Service Authority shall submit its integrated resource plan to the ~~State Energy Office~~ commission. The integrated resource plan must be developed in consultation with the electric cooperatives and municipally owned electric utilities purchasing power and energy from the Public Service Authority and consider any feedback provided by retail customers and shall include the effect of demand‑side management activities of the electric cooperatives and municipally owned electric utilities that directly purchase power and energy from the Public Service Authority or sell power and energy generated by the Public Service Authority. The integrated resource plan must be posted on the ~~State Energy Office’s~~ commission’s website and on the Public Service Authority’s website.

(B)(1) An integrated resource plan shall include all of the following:

(a) a long‑term forecast of the utility’s sales and peak demand under various reasonable scenarios;

(b) the type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including fuel cost sensitivities under various reasonable scenarios;

(c) projected energy purchased or produced by the utility from a renewable energy resource;

(d) a summary of the electrical transmission investments planned by the utility;

(e) several resource portfolios developed with the purpose of fairly evaluating the range of demand‑side, supply‑side, storage, and other technologies and services available to meet the utility’s service obligations. Such portfolios and evaluations must include an evaluation of low, medium, and high cases for the adoption of renewable energy and cogeneration, energy efficiency, and demand response measures, including consideration of the following:

(i) customer energy efficiency and demand response programs;

(ii) facility retirement assumptions; and

(iii) sensitivity analyses related to fuel costs, environmental regulations, and other uncertainties or risks;

(f) data regarding the utility’s current generation portfolio, including the age, licensing status, and remaining estimated life of operation for each facility in the portfolio;

(g) plans for meeting current and future capacity needs with the cost estimates for all proposed resource portfolios in the plan;

(h) an analysis of the cost and reliability impacts of all reasonable options available to meet projected energy and capacity needs; and

(i) a forecast of the utility’s peak demand, details regarding the amount of peak demand reduction the utility expects to achieve, and the actions the utility proposes to take in order to achieve that peak demand reduction.

(2) An integrated resource plan may include distribution resource plans or integrated system operation plans.

(C)(1) The commission shall have a proceeding to review each electrical utility’s and the Public Service Authority’s integrated resource plan. As part of the integrated resource plan filing, the commission shall allow intervention by interested parties. The commission shall establish a procedural schedule to permit reasonable discovery after an integrated resource plan is filed in order to assist parties in obtaining evidence concerning the integrated resource plan, including the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties. No later than three hundred days after an electrical utility files an integrated resource plan, the commission shall issue a final order approving, modifying, or denying the plan filed by the electrical utility or the Public Service Authority.

(2) The commission shall approve an electrical utility’s or Public Service Authority’s integrated resource plan if the commission determines that the proposed integrated resource plan represents the most reasonable and prudent means of meeting the electrical utility’s energy and capacity needs as of the time the plan is reviewed. To determine whether the integrated resource plan is the most reasonable and prudent means of meeting energy and capacity needs, the commission, in its discretion, shall consider whether the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, and applicable planning reserve margins;

(b) consumer affordability and least cost;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply; and

(g) other foreseeable conditions that the commission determines to be for the public interest.

(3) If the commission modifies or rejects an electrical utility’s or Public Service Authority’s integrated resource plan, the electrical utility or Public Service Authority, within sixty days after the date of the final order, shall submit a revised plan addressing concerns identified by the commission and incorporating commission‑mandated revisions to the integrated resource plan to the commission for approval. Within sixty days of the electrical utility’s or Public Service Authority’s revised filing, the Office of Regulatory Staff shall review the electrical utility’s or Public Service Authority’s revised plan and submit a report to the commission assessing the sufficiency of the revised filing. Other parties to the integrated resource plan proceeding also may submit comments. No later than sixty days after the Office of Regulatory Staff report is filed with the commission, the commission at its discretion may determine whether to accept the revised integrated resource plan or to mandate further remedies that the commission deems appropriate.

(4) The submission, review, and acceptance of an integrated resource plan by the commission, or the inclusion of any specific resource or experience in an accepted integrated resource plan, shall not be determinative of the reasonableness or prudence of the acquisition or construction of any resource or the making of any expenditure. The electrical utility shall retain the burden of proof to show that all of its investments and expenditures are reasonable and prudent when seeking cost recovery in rates.

(D)(1) An electrical utility or Public Service Authority shall submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility’s or Public Service Authority’s base planning assumptions relative to its most recently accepted integrated resource plan, including, but not limited to: energy and demand forecast, commodity fuel price inputs, renewable energy forecast, energy efficiency and demand‑side management forecasts, changes to projected retirement dates of existing units, along with other inputs the commission deems to be for the public interest. The electrical utility’s or Public Service Authority’s annual update must describe the impact of the updated base planning assumptions on the selected resource plan.

(2) The Office of Regulatory Staff shall review each ~~electric~~ electrical utility’s or Public Service Authority’s annual update and submit a report to the commission providing a recommendation concerning the reasonableness of the annual update. After reviewing the annual update and the Office of Regulatory Staff report, the commission may accept the annual update or direct the electrical utility or Public Service Authority to make changes to the annual update that the commission determines to be in the public interest.

(E) The commission is authorized to promulgate regulations to carry out the provisions of this section.”

SECTION 8. Section 58-40-10(D) of the 1976 Code is amended to read:

“(D) ‘Electrical utility’ shall be defined as in Section 58‑27‑10 and shall also include the South Carolina Public Service Authority; provided, however, that electrical utilities serving less than one hundred thousand customer accounts shall be exempt from the provisions of this chapter.”

SECTION 9. Section 58-41-10(4) of the 1976 Code is amended to read:

“(4) ‘Electrical utility’ is defined as set forth in Section 58‑27‑10(7), provided, however, that electrical utilities serving less than one hundred thousand customer accounts must be exempt from the provisions of this chapter. For Section 58‑41‑30 and Section 58‑41‑40, an ‘electrical utility’ also includes the South Carolina Public Service Authority. A renewable energy supplier participating in an electrical utility’s voluntary renewable energy program pursuant to this chapter must not be considered an electrical utility for purposes of this chapter.”

SECTION 10. Section 58-27-845(E) of the 1976 Code is amended to read:

“(E) Every customer of an electrical utility and the South Carolina Public Service Authority has a right to obtain their own electric usage data in a machine‑readable, accessible format to the extent such is readily available. Electrical utilities and the South Carolina Public Service Authority shall allow customers an electronic means to assent to share the customer’s energy usage data with a third‑party vendor designated by the customer.”

SECTION 11. Within ninety days of the enactment of this act, the Public Utility Review Committee shall establish a formal review process to evaluate the current staffing and budget resources available to the Office of Regulatory Staff and the Public Service Commission. The review process shall include a comprehensive assessment, report, and recommendations from a qualified, independent third‑party consultant and will take into consideration any additional resource and staffing needs of the Office of Regulatory Staff and the Public Service Commission required to adequately carry out their statutory obligations related to the oversight and regulation of the state’s electrical utilities and the South Carolina Public Service Authority.

SECTION 12. Nothing in this act shall be construed to limit the Board of Directors of the Public Service Authority from proceeding with the settlement of pending litigation, nor shall anything in this act be interpreted to interfere with or contradict the Public Service Authority’s bond covenants.

SECTION 13. This act takes effect upon approval by the Governor.

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