**South Carolina General Assembly**

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**S. 523**

**STATUS INFORMATION**

General Bill

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Introduced in the Senate on February 9, 2023

Currently residing in the Senate

Summary: Electric Generation Procurement

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/9/2023 Senate Introduced and read first time ([Senate Journal‑page 10](h:\sj\20230209.docx))

2/9/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 10](h:\sj\20230209.docx))

2/15/2023 Scrivener's error corrected

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=523&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[02/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/523_20230209.docx)

[02/15/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/523_20230215.docx)

[02/28/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/523_20230228.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING Section 58‑37‑40 so as to provide that central electric power cooperative must submit all proposed contracts or other plans for the procurement of electric generation to the joint bond review committee, the state regulation of public utilities review committee, and the public service commission of south carolina prior to execution.

Whereas, the South Carolina Public Service Authority was established in 1934 by the General Assembly through the federal Public Works Administration to serve the rural electrification needs of South Carolina; and

Whereas, the South Carolina Public Service Authority is a balancing authority as determined by the Federal Energy Regulatory Commission for the purpose of promoting and protecting the bulk electric grid of the Southeast on behalf of Central Electric Power Cooperative and on behalf of South Carolina’s electric cooperatives; and

Whereas, the South Carolina Public Service Authority has invested significant capital to serve the needs of its balancing authority area; and

Whereas, electric cooperatives in South Carolina were organized in 1948 under a collective cooperative, Central Electric Power Cooperative, for the purpose of connecting directly to the South Carolina Public Service Authority for the sole purpose of connecting electric cooperative distribution systems into the bulk electric transmission system of the South Carolina Public Service Authority; and

Whereas, the South Carolina Public Service Authority, upon approval of the South Carolina General Assembly, has constructed electric generating plants for the benefit of accomplishing both its mission and the mission of Central Electric Power Cooperative of providing reliable delivery of power to electric cooperatives in South Carolina, which remains Central Electric Power Cooperative’s mission and value today; and

Whereas, the South Carolina Public Service Authority has continued at present to invest state appropriated, bond financed monies for that same purpose of promoting rural electrification, economic development, and reliable generation and delivery of energy through a coordination agreement approved in 1980 in full force and effect today; and

Whereas, the South Carolina Public Service Authority, in its Integrated Resource Plan, intends to build a joint combined cycle natural gas‑fired generation resource with Dominion Energy South Carolina to provide affordable, reliable electric power, promote economic development, and increase natural gas infrastructure in the State of South Carolina; and

Whereas, the South Carolina Public Service Authority and Dominion Energy South Carolina are currently planning future generation to include a diverse, modernized generation portfolio of natural gas‑fired and renewable energy resources; and

Whereas, natural gas generation can be both load following and baseload generation; and

Whereas, load following generation enables intermittent generation resources such as solar and can serve as baseload generation to replace older uneconomical coal‑fired units; and

Whereas, jointly building a combined cycle natural gas plant will benefit customers as economies of scale will reduce the cost of generating electric power; and

Whereas, the General Assembly expects Central Electric Power Cooperative to remain committed to its coordination agreement with the South Carolina Public Service Authority and purchase from the South Carolina Public Service Authority all volumes of electricity made available to Central Electric Power Cooperative by the South Carolina Public Service Authority from this proposed generation resource in order that the decisions made by the South Carolina General Assembly to advantage both of these entities may continue to prevail as was originally intended by this body. Now, therefore,

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

SECTION 1. Section 58‑37‑40 of the S.C. 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 with one hundred thousand or more customer accounts and the Public Service Authority 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, electric utilities with less than one hundred thousand customer accounts, 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, electric utility with less than one hundred thousand customer accounts, 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. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy‑five percent renewable energy or because it purchases wholesale load balancing generation services, then 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 commission. The Public Service Authority shall develop a public process allowing for input from all stakeholders prior to submitting the integrated resource plan. 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 commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 58‑37‑40(B), the Public Service Authority's integrated resource plan shall include an analysis of long‑term power supply alternatives and enumerate the cost of various resource portfolios over various study periods including 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.

(b) In addition to the requirements of Section 58‑37‑40(B), the commission shall review and evaluate the Public Service Authority's analysis of long‑term power supply alternatives and various resource portfolios over various study periods including 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 energy requirements while maintaining safe and reliable electric service. The commission's evaluation shall include, but not be limited to:

(i) 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, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof. In evaluating and identifying the most cost‑effective and least ratepayer‑risk resource portfolio, the commission shall strive to reduce the risk to ratepayers associated with any generation and transmission options while maintaining safe and reliable electric service; and

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

(c) The Authority's integrated resource plan must provide the information required in Section 58‑37‑40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, 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, including Central Electric Power Cooperative, 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 of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal by the year 2050.

(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 subject to subsection (A)(1) 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 the 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 or the Public Service Authority'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’s interest.

(3) If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the 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 the Public Service Authority's revised filing, the Office of Regulatory Staff shall review the electrical utility's or the 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. An 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) Notwithstanding any other provision of law, Central Electric Power Cooperative must submit all proposed contracts or other plans for procurement of electric generation to the Joint Bond Review Committee, the State Regulation of Public Utilities Review Committee, and the Public Service Commission of South Carolina for approval prior to execution of any long‑term power contract. This section does not apply to generation procured in coordination with the South Carolina Power Authority through its coordinating agreement with Central Electric Power Cooperative.

(D)(E)(1) An electrical utility and the Public Service Authority shall each submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility's or the 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 electrical utility's or the 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 the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest.

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

SECTION 2. This act takes effect upon approval by the Governor.

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