**South Carolina General Assembly**

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**S. 754**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Setzler and Massey

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Summary: Amendment to SC Code of Laws of 1976; Title 02 and Title 58

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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1/9/2018 Senate Introduced and read first time ([Senate Journal‑page 33](file:///h:\sj\20180109.docx))

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**VERSIONS OF THIS BILL**

[12/6/2017](file:///p:\pprever\2017-18\754_20171206.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑33‑300 TO DISALLOW RECOVERY OF COSTS FOR A BASE LOAD REVIEW PLANT NOT CURRENTLY GENERATING POWER; TO AMEND SECTION 58‑31‑30(A)(13) TO PROHIBIT THE PUBLIC SERVICE AUTHORITY FROM INCLUDING COSTS FOR A JOINTLY OWNED PROJECT THAT IS SUBJECT TO AN EXISTING BASE LOAD REVIEW ORDER; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO REDUCE ELECTRIC RATES FOR SOUTH CAROLINA ELECTRIC & GAS BY EIGHTEEN PERCENT FOR THE PORTION ATTRIBUTABLE TO THE ABANDONED NUCLEAR UNITS; TO PROHIBIT THE PUBLIC SERVICE AUTHORITY FROM CHARGING IN ITS RATES THE FOUR AND THREE‑TENTHS PERCENT ATTRIBUTED TO THE ABANDONED NUCLEAR UNITS; TO AMEND SECTION 58‑33‑220(20) TO INCLUDE THE PUBLIC SERVICE AUTHORITY IN THE DEFINITION OF “UTILITY” IN THE BASE LOAD REVIEW ACT; TO AMEND SECTION 58‑33‑225 TO DELETE THE PROVISIONS RELATED TO ABANDONMENT; TO AMEND SECTION 58‑33‑275(A) TO REQUIRE THAT THE UTILITY PROVIDE ALL RELEVANT INFORMATION TO THE OFFICE OF REGULATORY STAFF AND THE PUBLIC SERVICE COMMISSION FOR A BASE LOAD REVIEW ORDER TO BE A FINAL AND BINDING DETERMINATION AND TO PROVIDE THAT ANY PARTY MAY CHALLENGE A BASE LOAD REVIEW ORDER IF A UTILITY FAILS TO SATISFY THE ESTABLISHED PARAMETERS IN THIS SECTION, WITH THE UTILITY BEARING THE BURDEN OF PROOF; TO AMEND SECTION 58‑33‑277(A) TO REQUIRE A UTILITY TO PROVIDE AN ANNUAL REPORT TO THE GENERAL ASSEMBLY FOLLOWING THE ISSUANCE OF A BASE LOAD REVIEW ORDER, AS WELL AS ANY OTHER INFORMATION THE GENERAL ASSEMBLY MAY REQUIRE; TO AMEND SECTION 58‑33‑280(K) and (L) TO DELETE THE PROVISIONS RELATED TO ABANDONMENT; TO AMEND SECTION 58‑3‑5(1) TO REVISE THE DEFINITION OF “BUSINESS WITH WHICH HE IS ASSOCIATED;” TO AMEND SECTION 58‑3‑20 TO REDUCE THE NUMBER OF PUBLIC SERVICE COMMISSIONERS TO FIVE MEMBERS, AND TO REMOVE QUALIFICATION EXCEPTIONS; TO AMEND CHAPTER 3 OF TITLE 58 TO ADD SECTION 58‑3‑21 TO REQUIRE THE PUBLIC SERVICE COMMISSION TO BALANCE CONCERNS OF THE CONSUMER, ECONOMIC DEVELOPMENT AND JOB ATTRACTION AND RETENTION, AND THE PRESERVATION OF THE FINANCIAL INTEGRITY OF THE STATE’S PUBLIC UTILITIES; TO AMEND SECTION 58‑3‑60 TO REMOVE THE PROHIBITION ON THE COMMISSION’S ABILITY TO INSPECT, AUDIT, OR EXAMINE PUBLIC UTILITIES; TO AMEND SECTION 58‑3‑70 TO PROVIDE THAT THE SALARY FOR EACH COMMISSIONER MUST BE THE SAME AMOUNT AS ESTABLISHED FOR A CIRCUIT COURT JUDGE; TO AMEND SECTION 58‑3‑130 TO PROVIDE THAT THE COMMISSION MAY DEMAND CERTAIN INFORMATION, AND THAT THE INFORMATION MUST BE FURNISHED TO THE COMMISSION; TO AMEND SECTION 58‑3‑140 TO ADD A SUBSECTION REQUIRING THE COMMISSION TO SUPERVISE AND REGULATE ANY JOINT OWNERSHIP PROJECT AND FACILITY, IN ITS ENTIRETY, BETWEEN A PUBLIC UTILITY AND THE PUBLIC SERVICE AUTHORITY; TO AMEND SECTIONS 58‑3‑190 AND 58‑3‑200 RELATED TO THE COMMISSION’S ABILITY TO INSPECT, AUDIT, OR EXAMINE ENTITIES SUBJECT TO THE COMMISSION’S JURISDICTION; TO AMEND SECTION 58‑3‑225 TO REQUIRE EACH PARTY TO PROVIDE TO THE COMMISSION ALL INFORMATION RELEVANT TO A MATTER PENDING BEFORE THE COMMISSION AND TO PROVIDE A PENALTY FOR A WILFUL AND INTENTIONAL FAILURE TO PROVIDE THAT INFORMATION; TO AMEND SECTION 58‑4‑5(1) TO REVISE THE DEFINITION OF “BUSINESS WITH WHICH HE IS ASSOCIATED;” TO AMEND SECTION 58‑4‑10 TO REQUIRE THE OFFICE OF REGULATORY STAFF TO REPRESENT THE PUBLIC INTEREST BEFORE THE PUBLIC SERVICE COMMISSION; TO AMEND SECTION 58‑4‑20 TO ADD A CONSUMER ADVOCATE TO THE OFFICE OF REGULATORY STAFF; TO AMEND SECTION 58‑4‑30(A) TO AMEND QUALIFICATIONS FOR THE EXECUTIVE DIRECTOR FOR THE OFFICE OF REGULATORY STAFF; TO AMEND SUBSECTION 58‑4‑50(A) TO DELETE THE REQUIREMENT THAT THE OFFICE OF REGULATORY STAFF HAS THE SOLE RESPONSIBILITY TO MAKE INSPECTIONS, AUDITS, OR EXAMINATIONS OF PUBLIC UTILITIES AS REQUESTED BY THE COMMISSION; TO AMEND SECTION 58‑4‑55 TO GIVE THE EXECUTIVE DIRECTOR OF THE OFFICE OF REGULATORY STAFF THE ABILITY TO ISSUE SUBPOENAS AND SUBPOENAS DUCES TECUM, AND TO PROVIDE A PENALTY FOR A WILFULL AND INTENTIONAL FAILURE TO PROVIDE INFORMATION; TO AMEND SUBSECTION 58‑31‑20(A) TO PROVIDE QUALIFICATIONS AND REVISE THE LENGTH OF TERMS FOR THE PUBLIC SERVICE AUTHORITY; TO AMEND SECTION 58‑31‑30(A)(14) TO REQUIRE A REVIEW BY THE JOINT BOND REVIEW COMMITTEE AND AN APPROVAL BY THE STATE FISCAL ACCOUNTABILITY AUTHORITY FOR ALL BONDS ISSUED IN EXCESS OF FIFTY PERCENT OF THE PUBLIC SERVICE AUTHORITY’S BONDING CAPACITY, AND TO REQUIRE THE PUBLIC SERVICE AUTHORITY TO NOTIFY THE JOINT BOND REVIEW COMMITTEE OF BONDS LESS THAN THIS AMOUNT; TO AMEND SECTION 58‑31‑30(B) TO REMOVE THE RESTRICTION ON THE PUBLIC SERVICE AUTHORITY TO EVALUATE THE FEASIBILITY OF A SALE, LEASE, TRANSFER, DISPOSAL, OR CONVEYANCE; TO AMEND 58‑31‑60 TO PROHIBIT THE PUBLIC SERVICE AUTHORITY FROM OFFERING RETIREMENT OR DEFERRED COMPENSATION PROGRAMS THAT ARE NOT ADMINISTERED BY THE SOUTH CAROLINA PUBLIC EMPLOYMENT BENEFIT AUTHORITY; TO AMEND CHAPTER 31, ARTICLE 1 OF TITLE 58 BY ADDING SECTION 58‑31‑205 TO REQUIRE JOINTLY OWNED PROJECTS BETWEEN THE PUBLIC SERVICE AUTHORITY AND A PRIVATELY OWNED ELECTRIC UTILITY TO BE SUBJECT TO REVIEW AND REGULATION BY THE PUBLIC SERVICE COMMISSION; TO AMEND CHAPTER 1 OF TITLE 2 BY ADDING SECTION 2‑1‑260 TO REQUIRE DEPARTMENTS, BUREAUS, OFFICERS, COMMISSIONS, INSTITUTIONS, AND OTHER AGENCIES OR UNDERTAKINGS OF THE STATE TO PROVIDE INFORMATION TO THE PRESIDENT PRO TEMPORE OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES UPON REQUEST, TO EXEMPT CERTAIN INFORMATION FROM DISCLOSURE, AND TO PROVIDE PENALTIES; TO AMEND SECTION 58‑3‑520 TO REVISE THE MEMBERSHIP FOR THE PUBLIC UTILITIES REVIEW COMMITTEE, SO AS TO PROVIDE FOR TWELVE MEMBERS AND FOR QUALIFICATIONS REGARDING ITS MEMBERSHIP; TO REPEAL SECTION 58‑3‑10; TO PROHIBIT THE PUBLIC SERVICE COMMISSION FROM RECEIVING OR REVIEWING A BASE LOAD REVIEW APPLICATION FILED ON OR AFTER NOVEMBER 21, 2017; TO PLACE THE BURDEN OF PROOF ON A UTILITY REQUESTING RATE RECOVERY UNDER THE BASE LOAD REVIEW ACT IN A PROCEEDING BEFORE THE PUBLIC SERVICE COMMISSION; TO DIRECT THE PUBLIC UTILITIES REVIEW COMMITTEE TO CONSIDER THE STATE ENERGY ACTION PLAN IN ITS REVIEW OF THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF REGULATORY STAFF BEGINNING ON JANUARY 1, 2019; AND TO PROVIDE FOR STAGGERED ELECTIONS FOR THE COMMISSIONERS OF THE PUBLIC SERVICE COMMISSION.

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

PART 1

ELECTRIC RATES ATTRIBUTABLE TO NUCLEAR

SECTION 1. Article 4 of Title 58 of the 1976 code is amended by adding:

“Section 58‑33‑300. (A) No electricity rate increases may be imposed or approved and no costs may be recovered through rate increases or otherwise from ratepayers for preconstruction costs, construction work in progress, capital costs, AFUDC expenses, financing charges for the payment of debt service relating to these costs or any other costs related to base load review plants that are not generating power.

(B) A utility charging an electric rate attributable to costs incurred in subsection (A) shall submit all documentation related to these costs to the Public Service Commission for review.

(C) A utility must not include in its rates any amount attributable to a base load review project that is not generating power as of January 1, 2018.”

SECTION 2. Section 58‑31‑30(A)(13) of the 1976 Code is amended to read:

“(13)(a) to fix, alter, charge, and collect tolls and other charges for the use of their facilities of, or for the services rendered by, or for any commodities furnished by, the Public Service Authority at rates to be determined by it, these rates to be at least sufficient to provide for payment of all expenses of the Public Service Authority, the conservation, maintenance, and operation of its facilities and properties, the payment of principal and interest on its notes, bonds, and other evidences of indebtedness or obligation, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such notes, bonds, or other evidences of indebtedness or obligation;

(b) No costs associated with the construction or expansion of a facility, including preconstruction costs, capital costs, construction work in progress costs, return on equity, weighted average cost of capital, or allowance for funds used during construction undertaken pursuant to an existing base load review order for a jointly owned project with a privately owned electric utility may be made a part of the rate base or otherwise included in the rates charged by the authority.”

SECTION 3. The Public Service Commission must reduce the electric rates charged by the South Carolina Electric & Gas Company by eighteen percent for the portion attributable to the abandoned nuclear units in Fairfield County. This revised rate must be effective as of January 1, 2018.

SECTION 4. The Public Service Authority is prohibited from charging in its rate four and three‑tenths percent attributed to the abandoned nuclear units in Fairfield County as of January 1, 2018.

PART II

BASE LOAD REVIEW ACT

SECTION 5. Section 58‑33‑220(20) of the 1976 Code is amended to read:

“(20) ‘Utility’ means a person owning or operating equipment or facilities for generating, transmitting, or delivering electricity to South Carolina retail customers for compensation but it shall not include electric cooperatives, municipalities, ~~the South Carolina Public Service Authority,~~ or a person furnishing electricity only to himself, itself, its residents, employees, or tenants when the electricity is not resold or used by others. For purposes of this Article, ‘utility’ includes the South Carolina Public Service Authority when the authority jointly owns a project receiving a base load review order.”

SECTION 6. Section 58‑33‑225 of the 1976 Code is amended to read:

“Section 58‑33‑225. (A) The provisions of this section apply to the preconstruction costs of a nuclear powered facility.

(B) At any time before the filing of an application or a combined application under this act related to a specific plant, a utility may file a project development application with the commission and the office of regulatory staff.

(C) In a project development application, the utility shall:

(1) describe the plant being considered and shall designate:

(a) the anticipated generation capacity (or range of capacity) of the plant; and

(b) the projected annual capacity factors or range of factors of the plant;

(2) provide information establishing the need for the generation capacity represented by the potential plant and the need for generation assets with the indicative annual capacity factors of the potential plant;

(3) provide information establishing the reasonableness and prudence of the potential fuel sources and potential generation types that the utility is considering for the plant; and

(4) provide such other information as may be required to establish that the decision to incur preconstruction costs related to the potential nuclear plant is prudent considering the information known to the utility at the time and considering the other alternatives available to the utility for supplying its generation needs.

(D) The commission shall issue a project development order affirming the prudency of the utility’s decision to incur preconstruction costs for the nuclear plant specified in the application if the utility demonstrates by a preponderance of evidence that the decision to incur preconstruction costs for the plant is prudent. In issuing its project development order, the commission may not rule on the prudency or recoverability of specific items of cost, but shall rule instead on the prudency of the decision to incur preconstruction costs for the nuclear plant described in Section 58‑33‑225(C)(1).

(E) Unless the record in a subsequent proceeding shows that individual items of cost were imprudently incurred, or that other decisions subsequent to the issuance of a project development order were imprudently made considering the information available to the utility at the time they were made, then all the preconstruction costs incurred for the potential nuclear plant must be properly included in the utility’s plant in service and must be recoverable fully through rates in future proceedings under this chapter.

(F) To the extent that a party in a general rate proceeding or revised rates proceeding establishes the imprudence of specific items of cost or of specific decisions made subsequent to the issuance of a project development order as set forth in Section 58‑33‑225(E), then the commission may disallow the resulting costs but only to the extent that a prudent utility would have avoided those costs considering the information available to the utility at the time when they were incurred or the decisions at issue were made.

~~(G)~~ ~~If the utility decides to abandon the project after issuance of a prudency determination under this section, then the preconstruction costs related to that project may be deferred, with AFUDC being calculated on the balance, and may be included in rates in the utility’s next general rate proceeding or revised rates proceeding, provided that as to the decision to abandon the plant, the utility shall bear the burden of proving by a preponderance of the evidence that the decision was prudent. Without in any way limiting the effect of Section 58 33 225(D), recovery of capital costs and the utility’s cost of capital associated with them may be disallowed only to the extent that the failure by the utility to anticipate or avoid the allegedly imprudent costs, or to minimize the magnitude of the costs, was imprudent considering the information available at the time that the utility could have acted to avoid or minimize the costs. Pending an order in the general rate proceeding or revised rates proceeding, the utility, at its discretion, may commence to amortize to cost of service the balance of the preconstruction costs related to the abandoned project over a period equal to the period during which the costs were incurred, or five years, whichever is greater.~~

~~(H)~~(G) Prudency determinations under Section 58‑33‑225(D) may not be challenged or reopened in any subsequent proceeding including proceedings under Section 58‑27‑810 and other applicable provisions and Section 58‑33‑220 and other applicable provisions of this article, except for Section 58‑33‑275(A). If any of the provisions of Section 58‑33‑275(A) are not met, any party may challenge the commission’s prudency determination.

~~(I)~~(H) At any time after an initial project development order has been issued, a utility may file an amended project development application seeking a determination of the prudency of the utility’s decision to continue to incur preconstruction costs considering changed circumstances or changes in the type or location of nuclear plant that the utility is pursuing or considering other characteristics or decisions related to the plant. The amended project development application must be considered in a separate docket; however, the testimony and other evidence of the prior docket must be considered to be part of the new docket.

~~(J)~~(I) Pursuant to Section 58‑33‑240, the commission shall enter an order granting or denying a project development order or amended project development order within six months of the filing of the application. If the commission fails to issue an order within the period prescribed in this section, a party may move that the commission issue an order granting or denying the application. If the commission fails to issue an order within ten days after the motion is served, the application will be considered granted.”

SECTION 7. Section 58‑33‑275(A) of the 1976 code is amended to read:

“(A) A base load review order shall constitute a final and binding determination that a plant is used and useful for utility purposes, and that its capital costs are prudent utility costs and expenses and are properly included in rates so long as the plant is constructed or is being constructed within the parameters of:

(1) the approved construction schedule including contingencies; ~~and~~

(2) the approved capital costs estimates including specified contingencies; and

(3) the utility has provided to the Office of Regulatory Staff and the Public Service Commission all information relevant to the plant being constructed.

If the utility fails to satisfy any of these parameters, the base load review order may be challenged and the utility will bear the burden of proof to establish that the plant should be deemed used and useful for utility purposes and that the decision to incur any costs related to the plant are prudent.”

SECTION 8. Section 58-33-277(A) of the 1976 Code is amended to read:

“Section 58‑33‑277. (A) After issuance of a base load review order approving rate recovery for capital costs related to the plant, the utility will file reports with the Office of Regulatory Staff quarterly and with the General Assembly annually until the plant begins commercial operation. These reports must be filed no later than forty five days after the close of a quarter, shall not be combined with any other filing, and shall contain the following information:

(1) the progress of construction of the plant;

(2) updated construction schedules;

(3) schedules of the capital costs incurred including updates to the information required by Section 58‑33‑270(B)(5);

(4) updated schedules of the anticipated capital costs; and

(5) other information as the Office of Regulatory Staff and the General Assembly may require.”

SECTION 9. Section 58 33 280(K) and (L) of the 1976 Code is amended to read:

“~~(K)~~ ~~Where a plant is abandoned after a base load review order approving rate recovery has been issued, the capital costs and AFUDC related to the plant shall nonetheless be recoverable under this article provided that the utility shall bear the burden of proving by a preponderance of the evidence that the decision to abandon construction of the plant was prudent. Without limiting the effect of Section 58 33 275(A), recovery of capital costs and the utility’s cost of capital associated with them may be disallowed only to the extent that the failure by the utility to anticipate or avoid the allegedly imprudent costs, or to minimize the magnitude of the costs, was imprudent considering the information available at the time that the utility could have acted to avoid or minimize the costs. The commission shall order the amortization and recovery through rates of the investment in the abandoned plant as part of an order adjusting rates under this article.~~

~~(L)~~(K) After completion of a plant that is subject to a base load review order, the Office of Regulatory Staff shall conduct an audit of the utility revenues, expenses, and rates consistent with the audits conducted of filings for new electric rates under Section 58 27 860. The audit must be based on a twelve month test period ending no later than December thirty first of the calendar year following the year in which the plant entered commercial operation and must be filed with all parties to the base load review proceeding within four months of the conclusion of the test period.”

PART III

PUBLIC SERVICE COMMISSION

SECTION 10. Section 58‑3‑5(1) of the 1976 Code is amended to read:

“(1) ‘Business with which he is associated’ means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock. This does not include a business from which the person or a member of his immediate family receives retirement income, annuity, pension, IRA, disability or deferred compensation payments.”

SECTION 11. Section 58‑3‑20 of the 1976 Code is amended to read:

“Section 58‑3‑20 (A) The commission is composed of ~~seven~~ five members to be elected by the General Assembly in the manner prescribed by this chapter. Each member must have:

(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) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

~~(B)~~ ~~The review committee may find a candidate qualified although the candidate does not have a background of substantial duration and expertise in one of the eight enumerated areas contained in subsection (A)(2) of this section if three‑fourths of the review committee vote to qualify the candidate and provide written justification of their decision in the report as to the qualifications of the candidates.~~

~~(C)~~ ~~The qualification provisions of subsection (A) of this section do not apply to the reelection of a commissioner elected by the General Assembly on March 3, 2004, so long as there is no break in service.~~

~~(D)(1)~~ ~~Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the Second, Fourth, and Sixth Congressional Districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. Thereafter, members representing the Second, Fourth, and Sixth Congressional Districts must be elected to terms of four years and until their successors are elected and qualify. In 2004, the members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the First, Third, and Fifth~~ ~~Congressional Districts and the State at large must be elected to terms of four years and until their successors are elected and qualify. Notwithstanding the provisions of this section, members representing the First, Third, and Fifth Congressional Districts shall serve until the expiration of their terms, and in 2013, members representing the First, Third, and Fifth Congressional Districts must be elected for terms ending on June 30, 2016, and until their successors are elected and qualified.~~

~~(2)~~ ~~In the event there are Seven Congressional Districts, the member elected from the State at large shall serve until the expiration of his term, and in 2013, a member representing the Seventh Congressional District must be elected for a term ending on June 30, 2016, and until his successor is elected and qualified. Thereafter, the member representing the Seventh Congressional District must be elected to terms of four years and until his successor is elected and qualified. Upon the election and qualification of the member representing the Seventh Congressional District, the at large member elected to satisfy the requirements of subsection (E) immediately shall cease to be a member of the commission.~~

~~(E)~~(B) ~~The General Assembly must provide for the election of the seven ‑member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven‑member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify.~~

The General Assembly must provide for the election of the five‑member commission. Each member shall be elected for a term of four years and shall continue in office until his successor is elected and qualified.

~~(F)~~(C) The Governor may fill vacancies in the office of commissioner until the successor in the office for a full term or an unexpired term, as applicable, has been elected by the General Assembly. In cases where a vacancy occurs on the commission when the General Assembly is not in session, the Governor may fill the vacancy by an interim appointment. The Governor must report the interim appointment to the General Assembly and must forward a formal appointment at its next ensuing regular session.”

SECTION 12. Chapter 3, Title 58 of the 1976 code is amended by adding:

“Section 58‑3‑21. The Public Service Commission, in consideration of a matter before it, must balance the following:

(1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;

(2) economic development and job attraction and retention in South Carolina; and

(3) preservation of the financial integrity of the state’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.”

SECTION 13. Section 58‑3‑60 of the 1976 Code is amended to read:

“Section 58‑3‑60 (A) The commission is authorized and empowered to employ: a chief clerk and deputy clerk; a commission attorney and assistant commission attorneys; hearing officers; hearing reporters; and such other professional, administrative, technical, and clerical personnel as the commission determines to be necessary in the proper discharge of the commission’s duties and responsibilities as provided by law. The chairman must organize and direct the work of the commission staff. The salaries of the chairman, the commissioners, and the chief clerk shall not be construed as limiting the maximum salary which may be paid to other employees of the Public Service Commission. The commission staff shall not appear as a party in commission proceedings and shall not offer testimony on issues before the commission.

(B) Subject to Section 58‑3‑580, the commission must be staffed and equipped to perform the functions set forth in this title ~~except for those responsibilities and functions reserved to the Office of Regulatory Staff~~. The expenses must be paid from the assessments collected pursuant to Section 58‑3‑100. The chairman, within allowed budgetary limits and as otherwise allowed by law, must authorize and approve travel, subsistence, and related expenses of personnel incurred while traveling on official business.

(C) The commissioners shall not supervise the Office of Regulatory Staff.

~~(D)~~ ~~The commission shall not inspect, audit, or examine public utilities. The inspection, auditing, and examination of public utilities is solely the responsibility of the Office of Regulatory Staff.~~”

SECTION 14. Section 58‑3‑70 of the 1976 Code is amended to read:

“Section 58‑3‑70. The chairman and members of the commission shall receive annual salaries payable in the same manner as the salaries of other state officers are paid. The salary for the commission members must be in the same amount as established for a circuit court judge. Each commissioner must devote full time to his duties as a commissioner and must not engage in any other employment, business, profession, or vocation during the normal business hours of the commission.”

SECTION 15. Section 58‑3‑130 of the 1976 Code is amended to read:

“Section 58‑3‑130 Upon demand by the ~~Office of Regulatory Staff~~ commission, each state department, board, and commission, and each officer or agent of the State must furnish to the ~~Office of Regulatory Staff~~ commission, for inspection and confidential use, any record or information on file with the department, board, commission, or officer, as appropriate, concerning the property values, operation, income, or other matter of any person doing business as a public utility in this State.”

SECTION 16. Section 58‑3‑140 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

“(G) The commission must supervise and regulate any joint ownership project and joint ownership facility, in its entirety, between a public utility in this State and the Public Service Authority.”

SECTION 17. Section 58‑3‑190 of the 1976 code is amended to read:

“Section 58‑3‑190 (A) The commission has the authority to require periodic written reports to be submitted by persons or entities subject to its jurisdiction. Such reports must relate to matters within the jurisdiction of the commission and must be filed with the commission and provided to the Office of Regulatory Staff.

(B) If, in the judgment of the commission, any report referred to in subsection (A) is not furnished within a reasonable time or does not satisfactorily address the matters the commission requires to be addressed in such reports, the commission must give the person or entity written notice of the reasons why the report is not satisfactory, and the person or entity shall have a reasonable time period in which to comply with the requirements of the notice.

~~(C)~~ ~~The commission may request the Office of Regulatory Staff to make, pursuant to Section 58‑4‑50(A)(2), an inspection, audit, or examination of the persons or entities referred to in subsection (A) regarding matters the commission requires to be addressed in the reports referred to in subsection (A).~~”

SECTION 18. Section 58‑3‑200 of the 1976 code is amended to read:

“Section 58‑3‑200 The commission has the authority to initiate inspections, audits, and examinations of all persons and entities subject to its jurisdiction. Such inspections, audits, and examinations must relate to matters within the commission’s jurisdiction. ~~Notwithstanding any other provision of law, the commission must not conduct such inspections, audits, and examinations itself, but must request that they be conducted by the Office of Regulatory Staff pursuant to Section 58‑4‑50(A)(2).~~”

SECTION 19. Section 58‑3‑225 of the 1976 Code is amended by adding appropriately lettered subsections to read:

“(F) Each party must provide to the Public Service Commission all information relevant to a matter pending before the commission in a timely manner. If relevant information that had not been provided to the commission becomes available after the commission has issued an order on the matter, the commission must reconsider the matter. In the event that the commission determines that its order would have been altered, either in whole or in part, based upon the new information that should have been provided to the commission, the commission may revise the previous order to reflect the changes, with the provisions retroactive to the date the commission issued the previous order. Action may not be taken to revise an order pursuant to this subsection for information more than six months after the initial order was issued, unless a person by fraud or other device intentionally prevents discovery of the information. If the information was withheld by fraud or other device, the commission may consider newly discovered information up to four years after the initial order is issued.

(G) Anyone who wilfully and intentionally fails to provide relevant information or who wilfully and intentionally misrepresents a matter to the commission is guilty of a felony, and must be fined in the discretion of the court and may be found in contempt.”

PART IV

OFFICE OF REGULATORY STAFF

SECTION 20. Section 58‑4‑5(1) of the 1976 code is amended to read:

“(1) ‘Business with which he is associated’ means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock. This does not include a business from which the person or a member of his immediate family receives retirement income, annuity, pension, IRA, disability or deferred compensation payments.”

SECTION 21. Section 58‑4‑10 of the 1976 code is amended to read:

“Section 58‑4‑10 (A) There is hereby created the Office of Regulatory Staff as a separate agency of the State with the duties and organizations as hereinafter provided.

(B) Unless and until it chooses not to participate, the Office of Regulatory Staff must be considered a party of record in all filings, applications, or proceedings before the commission. The regulatory staff must represent the public interest of South Carolina before the commission. For purposes of this chapter, ‘public interest’ means ~~a balancing of the following:~~

~~(1)~~ concerns of the using and consuming public with respect to public utility services, regardless of the class of customer~~;~~

~~(2)~~ ~~economic development and job attraction and retention in South Carolina; and~~

~~(3)~~ ~~preservation of the financial integrity of the state’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services~~.

(C) The Office of Regulatory Staff is subject to the provision of Section 58‑3‑260 prohibiting ex parte communications with the commission, and any advice given to the commission by the regulatory staff must be given in a form, forum, and manner as may lawfully be given by any other party or person.”

SECTION 22. Section 58‑4‑20 of the 1976 code is amended to read:

“Section 58‑4‑20 (A) The Office of Regulatory Staff shall consist of the executive director, consumer advocate, transportation inspectors, pipeline safety inspectors, railway safety inspectors, and other professional, administrative, technical, and clerical personnel as may be necessary in order for the regulatory staff to represent the public interest, as hereinafter provided. All such personnel must be appointed, supervised, and directed by the executive director.

(B) The regulatory staff is not subject to the supervision, direction, or control of the commission, the chairman, or members of the commission.

(C) The Office of Regulatory Staff must not be physically housed in the same location as the Public Service Commission. The review committee must approve the location of the Office of Regulatory Staff.”

SECTION 23. Section 58‑4‑30(A) of the 1976 code is amended to read:

“(A) The Executive Director of the Office of Regulatory Staff must be ~~an attorney qualified to practice in all courts of this State with a minimum of eight years’ practice experience and must be~~ appointed pursuant to the procedure set forth in Section 58‑3‑530(1)(b). The Executive Director must have:

(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) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.”

SECTION 24. Subsection 58‑4‑50(A) of the 1976 code is amended to read:

“Section 58‑4‑50 (A) It is the duty and responsibility of the regulatory staff to:

(1) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, review, investigate, and make appropriate recommendations to the commission with respect to the rates charged or proposed to be charged by any public utility;

(2) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, make inspections, audits, and examinations of public utilities regarding matters within the jurisdiction of the commission~~. The regulatory staff has sole responsibility for this duty but shall also make such inspections, audits, or examinations of public utilities as requested by the commission~~;

(3) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, review, investigate, and make appropriate recommendations to the commission with respect to the service furnished or proposed to be furnished by any public utility;

(4) represent the public interest in commission proceedings, hearings, rulemakings, adjudications, arbitrations, and other regulatory matters unless the Executive Director of the Office of Regulatory Staff chooses to opt out as a participant under the provisions of item 10;

(5) investigate complaints affecting the public interest generally, including those which are directed to the commission, commissioners, or commission employees, and where appropriate, make recommendations to the commission with respect to these complaints;

(6) upon request by the commission, make studies and recommendations to the commission with respect to standards, regulations, practices, or service of any public utility pursuant to the provisions of this title;

(7) make recommendations to the commission with respect to standards, regulations, practices, or service of any public utility pursuant to the provisions of this title;

(8) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, provide legal representation of the public interest before state courts, federal regulatory agencies, and federal courts in proceedings that could affect the rates or service of any public utility;

(9) to serve as a facilitator or otherwise act directly or indirectly to resolve disputes and issues involving matters within the jurisdiction of the commission;

(10) when considered appropriate by the Executive Director of the Office of Regulatory Staff and not adverse to the public interest, choose to not participate in any commission proceeding; and

(11) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, educate the public on matters affecting public utilities which are of special interest to consumers.”

SECTION 25. Section 58‑4‑55 of the 1976 code is amended to read:

“Section 58‑4‑55 (A) The regulatory staff, in accomplishing its responsibilities under Section 58‑4‑50, may require the production of books, records, and other information that, upon request of the regulatory staff, must be submitted under oath. If the books, records, or other information provided do not appear to disclose full and accurate information and, if such apparent deficiencies are not cured after reasonable notice, the Executive Director of the Office of ~~regulatory staff~~ Regulatory Staff may issue subpoenas and subpoenas duces tecum to require the attendance of witnesses to produce documents, books, papers, correspondence, memoranda, and other records relevant to the regulatory staff’s responsibilities, and require testimony under oath of the officers, accountants, or other agents of the parties having knowledge thereof at such place as the Executive Director of ~~regulatory staff~~ Regulatory Staff may designate. ~~and the~~ The expense of making the necessary examination or inspection for the procuring of the information must be paid by the party examined or inspected, to be collected by the regulatory staff by suit or action, if necessary. If, however, the examination and inspection and the reports thereof disclose that full and accurate information had previously been made, the expense of making the examination and inspection must be paid out of the funds of the regulatory staff.

(B) If the regulatory staff initiates an inspection, audit, or examination of a public utility, the public utility that is the subject of the inspection, audit, or examination may petition the commission to terminate or limit the scope of such inspection, audit, or examination. The commission must grant such petition if it finds that such inspection, audit, or examination is arbitrary, capricious, unnecessary, unduly burdensome, or unrelated to the public utility’s regulated operations.

(1) If such an inspection, audit, or examination is not part of a contested case proceeding, the public utility may also raise objections or seek relief available under the South Carolina Rules of Civil Procedure to a party upon whom discovery is served or to a person upon whom a subpoena is served. The commission shall provide the regulatory staff reasonable notice to respond to any such objection or request. Absent the consent of the public utility raising such an objection or request and the Office of Regulatory Staff, the commission must rule on such an objection or request within sixty days of the date it was filed. During the pendency of the commission’s ruling, the public utility making such an objection or request is not required to produce or provide access to any documents or information that is the subject of the objection or request.

(2) If such an inspection, audit, or examination is part of a contested case proceeding, the commission shall address objections to information sought by the regulatory staff in the same manner in which it addresses objections to discovery issued by the parties to the contested case proceeding.

(C) Any public utility that provides the regulatory staff with copies of or access to documents or information in the course of an inspection, audit, or examination that is not part of a contested case proceeding may designate any such documents or information as confidential or proprietary if it believes in good faith that such documents or information would be entitled to protection from public disclosure under the South Carolina Rules of Civil Procedure or any provision of South Carolina or federal law. The regulatory staff may petition the commission for an order that some or all of the documents so designated are not entitled to protection from public disclosure and it shall be incumbent on the utility to prove that such documents are entitled to protection from public disclosure under the South Carolina Rules of Civil Procedure or any provision of South Carolina or federal law. The commission shall rule on such petition after providing the regulatory staff and the utility an opportunity to be heard. Unless the commission’s order on such a petition contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Sections 30‑4‑10, et seq. and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity; provided, however, that, if the commission determines that it is necessary to view such documents or information in order to rule on such a petition, it shall order the regulatory staff to file the documents or information with the commission under seal, and such documents or information shall not be available for public inspection during the pendency of the petition.

(D) Nothing in this section restricts the regulatory staff’s ability to serve discovery in a contested case proceeding that seeks the type of documents or information the regulatory staff has obtained in the course of any review, investigation, inspection, audit, or examination, nor does anything in this section restrict the ability of any public utility to object to such discovery or to seek relief regarding such discovery, including without limitation the entry of a protective order.

(E) Anyone who wilfully and intentionally fails to comply with a subpoena issued in accordance with the provisions of this section is guilty of a felony, and must be fined in the discretion of the court and may be found in contempt of court.”

PART V

PUBLIC SERVICE AUTHORITY

SECTION 26. Section 58‑31‑20(A) of the 1976 Code is amended to read:

“Section 58‑31‑20. (A)(1) The Public Service Authority consists of a board of twelve directors 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 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. No more than two members from the same county may serve as directors at any time.

(2) Each director must have:

(a) a baccalaureate or more advanced degree from:

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

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

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

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

(i) energy issues;

(ii) telecommunications issues;

(iii) consumer protection and advocacy issues;

(iv) water and wastewater issues;

(v) finance, economics, and statistics;

(vi) accounting;

(vii) engineering; or

(viii) law.

(3) 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. A director shall not serve as an employee or board member of an electric cooperative during his term as a director.

(4) 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 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 the director’s successor, with the advice and consent of the Senate, and the successor‑director shall hold office for the unexpired term.

(5) A director may not receive a salary for services as director until the authority is in funds, but 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 compensation and expenses of each member of the board must be paid from these funds, and the compensation and expenses must be fixed by the advisory board established in this section.

(6) 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 is not eligible for appointment as Director of the Public Service Authority during the term of his office. ~~No more than two members from the same county may serve as directors at any time.~~”

SECTION 27. Section 58‑31‑30(A)(14) of the 1976 Code is amended to read:

“(14)(a) as necessary to borrow money, make and issue negotiable notes, bonds, and other evidences of indebtedness including refunding and advanced refunding notes, bonds, and other evidences of indebtedness, of the Public Service Authority; to secure the payment of these obligations or any part of them by mortgage, lien, pledge, or deed of trust, on all or any of its property, contracts, franchises, or revenues including the proceeds of the refunding and advanced refunding notes, bonds, and other evidences of indebtedness and the investments in which these proceeds are invested and the earning on and income from them; to invest its monies including without limitation its revenues and the proceeds of these notes, bonds, or other evidences of indebtedness, in obligations of, or obligations the principal of and interest on which are guaranteed by or are fully secured by contracts with, the United States of America, in obligations of any agency, instrumentality, or corporation which has been or may be created by or pursuant to an act of Congress of the United States as an agency, instrumentality, or corporation of them, in direct and general obligations of the State of South Carolina, and in certificates of deposit issued by any bank, trust company, or national banking association. The authority, when investing in certificates of deposit, shall invest in certificates of deposit issued by institutions authorized to do business in South Carolina if the institutions offer terms which, in the opinion of the authority, are equal to or better than those offered by other institutions; to make such agreements with the purchasers or holders of the notes, bonds, or other evidences of indebtedness, or with others in connection with any of these notes, bonds, or other evidences of indebtedness, whether issued or to be issued, as the Public Service Authority shall deem advisable; and in general to provide for the security for said notes, bonds, or other evidences of indebtedness and the rights of the holders of them; provided, that in the exercise of the powers in this section granted to issue advanced refunding notes, bonds, or other evidences of indebtedness, the Public Service Authority may, but is not required to, avail itself of or comply with any of the provisions of the Advanced Refunding Act, Sections 11‑21‑10 to 11‑21‑80;

(b) Bonds issued pursuant to subitem (a) in excess of fifty percent of the authority’s bonding capacity must be reviewed by the Joint Bond Review Committee and approved by the State Fiscal Accountability Authority. The authority must notify the Joint Bond Review Committee of any bonds issued that are not in excess of fifty percent of the authority’s bonding capacity.”

SECTION 28. Section 58‑31‑30(B) of the 1976 Code is amended to read:

“(B) The powers conferred by subsection (A) upon the board of directors may not be construed to give the board of directors the power to sell, lease, or dispose of, except by way of mortgage or deed of trust, all of the property, real, personal, or mixed, of the authority, but the board of directors may sell, lease, or dispose of any surplus property which it may acquire and which the board of directors deems not to be necessary for the purpose of the development. Without prior approval from the General Assembly by act, the authority must not sell, transfer, lease, dispose of, or convey any property, real, personal, or mixed, of the authority used in the generation, transmission, or distribution of electricity, beyond that property considered to be surplus. However, the authority may lease property owned by the authority, including property within the authority’s Federal Energy Regulatory Commission Project boundaries, provided the lease does not substantially or materially impair its ability to meet electricity generation, transmission, and distribution needs of its ongoing operation including an adequate reserve capacity and such growth in needs as reasonably may be forecasted. Further, the lease must be in the best interests of the authority as defined in Section 58‑31‑55(A)(3).

~~Without prior approval from the General Assembly by act, the authority must not inquire into the feasibility of the sale, transfer, lease, disposal, or conveyance of property, real, personal, or mixed, of the authority that is used in the generation, transmission, or distribution of electricity unless the sale, transfer, lease, disposition, or conveyance would not materially impair the authority’s ability to meet generation, transmission, and distribution needs of its ongoing operation including an adequate reserve capacity and such growth in needs as reasonably may be forecasted.~~”

SECTION 29. Section 58‑31‑60 of the 1976 Code is amended to read:

“Section 58‑31‑60. (A)(1) The powers of the Public Service Authority shall be exercised by the board of directors, with the exception of such duties as this chapter shall impose upon the advisory board. A majority of the members of the board of directors shall constitute a quorum of the board for the purpose of organizing the Public Service Authority and conducting the business thereof and for all other purposes and all action may be taken by vote of a majority of directors present unless in any case the bylaws shall require a larger number. The board of directors shall have full authority to manage the property and business of the Public Service Authority, and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the general business of the Public Service Authority may be conducted and the powers granted to it may be exercised and embodied.

(2) The board of directors shall fix and determine the number of officers, agents, employees and servants of the Public Service Authority and their respective compensation and duties, and may delegate to one or more of their number, or to one or more of such officers, agents, employees or servants, such powers and duties as it may deem proper. The board of directors is prohibited from offering retirement or deferred compensation programs to officers, agents, employees, and servants of the Public Service Authority that are not administered by the South Carolina Public Employment Benefit Authority.

(3) Each director shall give bond for the faithful performance of his duties as such director in the penal sum of at least ten thousand dollars, the premium for the first bonds to be paid by the Governor from his contingent fund to be reimbursed when the Authority is in funds, and all subsequent premiums to be paid from funds of the Authority. The board of directors shall require similar bonds in such amounts as they may determine from any or all officers, agents and employees in position of responsibility or trust. The position of director of the Public Service Authority is not a public office, and the State shall in no wise be responsible for the acts of the directors, but each director and his surety and the Public Service Authority shall be responsible for all acts of the director in connection with the functions herein provided for.

(B) Forthwith upon the appointment and organization of the Public Service Authority it shall proceed with the improvement and development of the Cooper River, the Santee River, the Congaree River and their tributaries upstream to the confluence of the Broad and Saluda Rivers and upstream on the Wateree River to a point at or near Camden for the aid and benefit of commerce and navigation, flood control and drainage, and for the development of the hydroelectric power inherent therein. The Authority shall investigate other power and navigation projects in the State and shall have power to acquire or develop desirable ones as early as practicable.”

SECTION 30. Chapter 31, Article 1 of Title 58 of the 1976 code is amended by adding:

“Section 58‑31‑205. Projects jointly owned by the Public Service Authority and one or more privately owned electric utilities for existing or future generation are subject to review and regulation by the Public Service Commission pursuant to Section 58‑3‑140.”

SECTION 31. Chapter 1, Title 2 of the 1976 code is amended by adding:

“Section 2‑1‑260. (A) The departments, bureaus, officers, commissions, institutions, and other agencies or undertakings of the State, upon request, shall immediately furnish to the President Pro Tempore of the Senate or the Speaker of the House of Representatives in such form as he may require, any information requested in relation to their respective affairs or activities.

(B) Information provided pursuant to subsection (A) that is considered exempt from public disclosure under Section 30‑4‑40 by the department, bureau, officer, commission, institution, or other agency or undertaking of the State does not constitute a waiver of confidentiality.

(C) Any member of the General Assembly who obtains information provided pursuant to this section and wilfully violates the confidentiality provisions of subsection (B) shall be deemed guilty of a crime of moral turpitude and, upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense.”

PART VI

PUBLIC UTILITIES REVIEW COMMITTEE

SECTION 32. Section 58‑3‑520 of the 1976 code is amended to read:

“58‑3‑520 (A) The review committee shall be composed of ~~ten~~ twelve members, who must be appointed in the following manner:

(1) three ~~of whom shall be~~ members of the House of Representatives, including the Chairman of the Labor, Commerce and Industry Committee, or his designee, and two representatives appointed by the Speaker of the House of Representatives;

(2) three ~~of whom shall be~~ members of the Senate, including the Chairman of the Judiciary Committee or his designee, and two senators appointed by the Chair of the Senate Judiciary Committee;

(3) two ~~of whom shall be~~ members of the general public appointed by the Chairman of the Senate Judiciary Committee ~~from the general public at large~~, and

(4) two ~~of whom~~ members of the general public appointed by the Speaker of the House of Representatives ~~from the general public at large~~; and

(5) two members of the general public appointed by the Governor.

~~The Speaker of the House of Representatives shall determine how its legislative members shall be selected. The Chairman of the Senate Judiciary Committee will select the members of the Senate.~~

(B) ~~Provided, however, that in~~ In making appointments to the ~~joint~~ review committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

(1) The members of the general public appointed by the Speaker and the Chairman of the Senate Judiciary Committee must be representative of all citizens of this State and must not be members of the General Assembly. Each of these public members must also have:

(a) a baccalaureate or more advanced degree from:

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

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

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

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

(i) energy issues;

(ii) telecommunications issues;

(iii) consumer protection and advocacy issues;

(iv) water and wastewater issues;

(v) finance, economics, and statistics;

(vi) accounting;

(vii) engineering; or

(viii) law.

(2) The members of the general public appointed by the Governor must have:

(a) a baccalaureate or more advanced degree from:

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

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

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

(c) one member must have a background of substantial duration and an expertise in consumer affairs;

(d) one member must have a background of substantial duration and an expertise in alternative energy issues.

~~The Speaker of the House of Representatives shall determine how its legislative members shall be selected. The Chairman of the Senate Judiciary Committee will select the members of the Senate.~~

~~(B)~~(C) The review committee 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 review committee may consider necessary. Thereafter, the review committee must meet at least annually and at the call of the chairman or by a majority of the members. A quorum consists of ~~six~~ seven members.

(D) Unless the review committee finds a candidate qualified and nominates the candidate for a seat on the Public Service Commission or for the Executive Director of the Office of Regulatory Staff, the candidate must not be elected to the Public Service Commission or appointed to serve as Executive Director of the Office of Regulatory Staff.”

PART VII

MISCELLANEOUS

SECTION 33. Section 58‑3‑10 is repealed.

SECTION 34. The Public Service Commission must not accept nor consider a base load review application filed on or after November 21, 2017.

SECTION 35. For any proceeding before the Public Service Commission concerning rate recovery under the Base Load Review Act, the burden shall be on the utility to prove that any requests for rate recovery are prudent.

SECTION 36. SECTION 27 in PART V applies to bonds issued after January 1, 2018 and does not alter, limit, or restrict the power of the Public Service Authority to service outstanding bonded indebtedness issued prior to this date.

SECTION 37. SECTION 29 in PART V takes effect on November 21, 2017. As of November 21, 2017, the Public Service Authority must not offer retirement or deferred compensation programs not administered by the South Carolina Public Employment Benefit Authority, nor may it enroll additional members in any retirement or deferred compensation programs not administered by the South Carolina Public Employment Benefit Authority.

SECTION 38. As of January 1, 2019, the Public Utilities Review Committee must consider the State Energy Action Plan in its review of the Public Service Commission and the Office of Regulatory Staff.

SECTION 39. (A) The Public Service Commission, as constituted under law in effect as this act’s effective date is reconstituted to continue in existence with the appointment and qualification of the members as prescribed in this article and with the changes in duties and powers as prescribed in this title. On June 30, 2018, the terms of the commissioners serving on the Public Service Commission shall end. The initial elections for commissioners for service to begin on July 1, 2018, must be made as follows: (a) Seats 1, 2 and 3 are elected for a term of 2 years, and (b) Seats 4 and 5 are elected for a term of four years. Thereafter, the terms of all commissioners is for four years.

(B) Unless otherwise noted in this act, nothing in this act affects the commission’s jurisdiction over matters pending before the commission, on or before January 1, 2018.

SECTION 40. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections relating to the subject of the effects of utility regulation and governance. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 41. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 42. This act takes effect on January 1, 2018.

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