COMMITTEE REPORT

April 28, 2022

**H. 5252**

Introduced by Reps. Sandifer and G.M. Smith

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Read the first time April 20, 2022.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Joint Resolution (H. 5252) to encourage economic growth in South Carolina through the establishment of competitive electric rates, terms, and conditions for certain qualifying commercial and industrial customers seeking to locate in South Carolina, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

WILLIAM E. SANDIFER III for Committee.

**A** **JOINT RESOLUTION**

TO ENCOURAGE ECONOMIC GROWTH IN SOUTH CAROLINA THROUGH THE ESTABLISHMENT OF COMPETITIVE ELECTRIC RATES, TERMS, AND CONDITIONS FOR CERTAIN QUALIFYING COMMERCIAL AND INDUSTRIAL CUSTOMERS SEEKING TO LOCATE IN SOUTH CAROLINA; TO ENABLE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA TO CONSIDER QUANTIFIABLE NET BENEFITS TO UTILITY CUSTOMERS DUE TO ECONOMIC DEVELOPMENT WHEN SETTING JUST AND REASONABLE RATES; AND TO PROVIDE AN EXPEDITIOUS PROCESS FOR AN ELECTRICAL UTILITY TO OFFER PRICING TO THE SOUTH CAROLINA DEPARTMENT OF COMMERCE FOR POTENTIAL ECONOMIC DEVELOPMENT PROSPECTS.

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

SECTION 1. This joint resolution must be known and may be cited as the “Economic Encouragement Act.”

SECTION 2. The General Assembly hereby finds and declares that:

(1) the economic and financial well‑being of South Carolina and its citizens depends upon continued economic development and opportunities for employment;

(2) the cost of electricity and the availability of renewable energy sources for electricity are important factors in the decision for a commercial and industrial entity to locate or expand their existing establishments in South Carolina;

(3) competitive electric rates, terms, and conditions and the ability to utilize renewable energy sources for electric power generation are necessary to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State;

(4) the Public Service Commission of South Carolina should weigh and consider any quantifiable net benefits that may result from economic development opportunities resulting from prospective commercial or industrial entities in determining whether rates, terms, and conditions proposed by an electrical utility as defined by Section 58‑27‑10(7) are reasonable, prudent, and in the best interest of the electrical utility’s general body of retail customers; and

(5) rates proposed by electrical utilities for prospective commercial or industrial entities that are at or greater than the electrical utility’s marginal cost should be presumed reasonable.

SECTION 3. For the purposes of this act unless otherwise specified:

(1) “Commission” means Public Service Commission of South Carolina.

(2) “Electrical utility” has the same meaning as provided in Section 58‑27‑10(7).

(3) “Prospective manufacturing entity” means a commercial or industrial entity that proposes to:

(a) request new, permanent electric service to a new establishment or location in an electrical utility’s service territory;

(b) expand an existing establishment in an electrical utility’s service territory that has existing permanent electric service and which expansion will result in additional electrical load on the electrical utility’s system; or

(c) locate in an existing establishment and establish a new customer service account with the electrical utility for which expansion will result in additional electrical load on the electrical utility’s system;

(4) “Marginal cost” means the electrical utility’s marginal cost for producing energy.

(5) “Rate proposal” means a written document that identifies the rates, terms, and conditions for electric service offered by an electrical utility to a prospective manufacturing entity.

(6) “Contracts” shall have the same meaning as the term is used in Section 58‑27‑980.

(7) “Qualifying customer” means a commercial or industrial customer that agrees to locate its operations in South Carolina; or expand its existing establishment; and such location or expansion results in the addition of a minimum of:

(a) 500 kilowatts at one point of delivery;

(b) one hundred new employees; and

(c) capital investment of four hundred thousand dollars following the electrical utility’s approval for service.

(8) “Renewable energy facility” means a solar array or other facility constructed by or on behalf of a qualifying customer for the exclusive purpose of supplementing electric power generation from a renewable energy source for its economic development location or expansion.

SECTION 4. (A) Notwithstanding any other provision of law, an electrical utility may provide the South Carolina Department of Commerce or a prospective manufacturing entity with a rate proposal containing terms and conditions that would incentivize and encourage the prospective manufacturing entity to employ additional workforce and to make capital investments in the electrical utility’s service territory. The rate proposal provided by an electrical utility may differ from the final contract, rate, terms, and conditions with the qualifying customer.

(B) The electrical utility shall file the rate proposal with the commission for review and acceptance. The rate proposal is determined to be presumptively reasonable if the rates, terms, and conditions are equal to or greater than the electrical utility’s marginal cost.

SECTION 5. (A) Nothing in this act shall restrict the commission’s authority to regulate rates and charges or review contracts entered into by, or supervise the operations of electrical utilities.

(B) An electrical utility may offer economic development rates to a qualifying customer that may be lower than the rate or rates that the qualifying customer otherwise would be or is subject to under the electrical utility’s commission‑approved tariffs in effect at the time; provided, however, that the economic development rate must not be lower than the electrical utility’s marginal cost of providing service to the qualifying customer.

(C) An electrical utility may negotiate and enter into agreements that contain economic development rates with a qualifying customer, which agreements and rates shall be subject to commission approval, and which shall be for a term not exceeding ten years. The electrical utility may offer the qualifying customer real‑time pricing options or riders for other clean energy attributes which may support the qualifying customer’s sustainability goals.

(D) In the commission’s determination of the public interest for any economic development rate or contract, the electrical utility bears the burden of proof to establish that:

(1) the rates or charges assessed to the electrical utility’s other customers do not subsidize the cost of providing economic development rates to a qualifying customer;

(2) the rates of other electrical utility operations do not increase; and

(3) other customers of the electrical utility do not experience a rate increase due to a rate or rates offered to a qualifying customer.

SECTION 6. In compliance with federal and state law, the utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying customer to support electric power generation at its economic development location or expansion where high‑quality and reliable electric service are not adversely impacted.

SECTION 7. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.

SECTION 8. This joint resolution takes effect upon approval by the Governor.

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