

General Bill, By J.E. Smith and Bales

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "PUBLIC UTILITY CONSUMER PROTECTION ACT" BY ADDING SECTION 58-33-299 SO AS TO PROHIBIT FUTURE BASE LOAD REVIEW APPLICATIONS OR PETITIONS FOR MODIFICATION; BY ADDING SECTION 58-33-300 SO AS TO REQUIRE A UTILITY TO MEET CERTAIN REQUIREMENTS BEFORE IT MAY RECOVER COSTS OF AN ABANDONED BASE LOAD PLANT; BY ADDING SECTION 58-33-305 SO AS TO REQUIRE A UTILITY TO BEAR THE DUTY OF CANDOR TO THE COMMISSION; BY ADDING CHAPTER 41 TO TITLE 58 SO AS TO CREATE THE SOUTH CAROLINA PUBLIC UTILITY CONSUMER ADVOCATE OFFICE, TO DEFINE NECESSARY TERMS, TO ESTABLISH THE TERM AND POWERS OF THE DIRECTOR, TO PROVIDE THE DUTIES OF THE OFFICE IN REPRESENTING CONSUMERS IN PROCEEDINGS AND TO ESTABLISH A SOURCE OF FUNDING; TO AMEND SECTION 1-11-20, AS AMENDED, RELATING TO THE TRANSFER OF OFFICES, SO AS TO TRANSFER THE STATE ENERGY OFFICE TO THE EXECUTIVE BRANCH OF THIS STATE, TO AMEND SECTIONS 48-52-410, 48-52-440, AND 48-52-460, AS AMENDED, ALL RELATING TO THE STATE ENERGY OFFICE, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 58-33-110, RELATING TO REQUIREMENTS FOR THE CONSTRUCTION OF A MAJOR UTILITY FACILITY, SO AS TO ESTABLISH CERTAIN REQUIREMENTS BEFORE THE APPROVAL OF A PLAN TO RECOVER THE CONSTRUCTION COSTS IN THE RATES FOR THE UTILITY; TO AMEND SECTION 58-33-220, RELATING TO DEFINITIONS FOR THE BASE LOAD REVIEW ACT, SO AS TO DEFINE THE TERM "PRUDENCE"; TO AMEND SECTION 58-33-270, RELATING TO BASE LOAD REVIEW ORDERS, SO AS TO ESTABLISH A PROCEDURE FOR A PARTY TO CHALLENGE A BREACH OF A UTILITY'S DUTY OF CANDOR AND TRANSPARENCY; TO AMEND SECTION 58-37-10, RELATING TO DEFINITIONS APPLICABLE TO PUBLIC UTILITIES, SO AS TO DEFINE THE TERM "ENERGY EFFICIENCY"; TO AMEND SECTION 58-37-20, RELATING TO THE PUBLIC SERVICE COMMISSION ADOPTING PROCEDURES ENCOURAGING ENERGY EFFICIENCY, SO AS TO ESTABLISH ENERGY SAVINGS GOALS, TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO PROMULGATE RULES, TO REQUIRE A UTILITY TO SUBMIT ENERGY EFFICIENCY PLANS AND TO ENUMERATE REQUIREMENTS FOR THE PLANS, TO REQUIRE A UTILITY TO SUBMIT AN ANNUAL REPORT, TO REQUIRE THE OFFICE OF REGULATORY STAFF TO PRODUCE A REPORT EVERY THREE YEARS, TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO ADOPT REGULATIONS TO ENCOURAGE PUBLIC UTILITIES PROVIDING GAS SERVICES TO INVEST IN COST-EFFECTIVE ENERGY EFFICIENT TECHNOLOGIES, TO AUTHORIZE THE PUBLIC SERVICE AUTHORITY TO ADOPT GUIDELINES REFLECTING THE DEDICATION TO INVEST IN ENERGY EFFICIENT TECHNOLOGY; AND TO AMEND SECTION 58-37-40, RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO DEFINE NECESSARY TERMS, TO REQUIRE ELECTRICAL UTILITIES TO PREPARE INTEGRATED RESOURCE PLANS AND ENUMERATE CERTAIN REQUIREMENTS FOR THE INTEGRATED RESOURCE PLANS AND TO REQUIRE THE PUBLIC SERVICE AUTHORITY TO PREPARE INTEGRATED RESOURCE PLANS.

11/09/17 House Prefiled

11/09/17 House Referred to Committee on Judiciary

H. 4425

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "PUBLIC UTILITY CONSUMER PROTECTION ACT" BY ADDING SECTION 58-33-299 SO AS TO PROHIBIT FUTURE BASE LOAD REVIEW APPLICATIONS OR PETITIONS FOR MODIFICATION; BY ADDING SECTION 58-33-300 SO AS TO REQUIRE A UTILITY TO MEET CERTAIN REQUIREMENTS BEFORE IT MAY RECOVER COSTS OF AN ABANDONED BASE LOAD PLANT; BY ADDING SECTION 58-33-305 SO AS TO REQUIRE A UTILITY TO BEAR THE DUTY OF CANDOR TO THE COMMISSION; BY ADDING CHAPTER 41 TO TITLE 58 SO AS TO CREATE THE SOUTH CAROLINA PUBLIC UTILITY CONSUMER ADVOCATE OFFICE, TO DEFINE NECESSARY TERMS, TO ESTABLISH THE TERM AND POWERS OF THE DIRECTOR, TO PROVIDE THE DUTIES OF THE OFFICE IN REPRESENTING CONSUMERS IN PROCEEDINGS AND TO ESTABLISH A SOURCE OF FUNDING; TO AMEND SECTION 1-11-20, AS AMENDED, RELATING TO THE TRANSFER OF OFFICES, SO AS TO TRANSFER THE STATE ENERGY OFFICE TO THE EXECUTIVE BRANCH OF THIS STATE, TO AMEND SECTIONS 48-52-410, 48-52-440, AND 48-52-460, AS AMENDED, ALL RELATING TO THE STATE ENERGY OFFICE, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 58-33-110, RELATING TO REQUIREMENTS FOR THE CONSTRUCTION OF A MAJOR UTILITY FACILITY, SO AS TO ESTABLISH CERTAIN REQUIREMENTS BEFORE THE APPROVAL OF A PLAN TO RECOVER THE CONSTRUCTION COSTS IN THE RATES FOR THE UTILITY; TO AMEND SECTION 58-33-220, RELATING TO DEFINITIONS FOR THE BASE LOAD REVIEW ACT, SO AS TO DEFINE THE TERM "PRUDENCE"; TO AMEND SECTION 58-33-270, RELATING TO BASE LOAD REVIEW ORDERS, SO AS TO ESTABLISH A PROCEDURE FOR A PARTY TO CHALLENGE A BREACH OF A UTILITY'S DUTY OF CANDOR AND TRANSPARENCY; TO AMEND SECTION 58-37-10, RELATING TO DEFINITIONS APPLICABLE TO PUBLIC UTILITIES, SO AS TO DEFINE THE TERM "ENERGY EFFICIENCY"; TO AMEND SECTION 58-37-20, RELATING TO THE PUBLIC SERVICE COMMISSION ADOPTING PROCEDURES ENCOURAGING ENERGY EFFICIENCY, SO AS TO ESTABLISH ENERGY SAVINGS GOALS, TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO PROMULGATE RULES, TO REQUIRE A UTILITY TO SUBMIT ENERGY EFFICIENCY PLANS AND TO ENUMERATE REQUIREMENTS FOR THE PLANS, TO REQUIRE A UTILITY TO SUBMIT AN ANNUAL REPORT, TO REQUIRE THE OFFICE OF REGULATORY STAFF TO PRODUCE A REPORT EVERY THREE YEARS, TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO ADOPT REGULATIONS TO ENCOURAGE PUBLIC UTILITIES PROVIDING GAS SERVICES TO INVEST IN COST-EFFECTIVE ENERGY EFFICIENT TECHNOLOGIES, TO AUTHORIZE THE PUBLIC SERVICE AUTHORITY TO ADOPT GUIDELINES REFLECTING THE DEDICATION TO INVEST IN ENERGY EFFICIENT TECHNOLOGY; AND TO AMEND SECTION 58-37-40, RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO DEFINE NECESSARY TERMS, TO REQUIRE ELECTRICAL UTILITIES TO PREPARE INTEGRATED RESOURCE PLANS AND ENUMERATE CERTAIN REQUIREMENTS FOR THE INTEGRATED RESOURCE PLANS AND TO REQUIRE THE PUBLIC SERVICE AUTHORITY TO PREPARE INTEGRATED RESOURCE PLANS.

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

SECTION 1. This act may be cited as the "Public Utility Consumer Protection Act".

SECTION 2. Article 3, Chapter 33, Title 58 of the 1976 Code is amended by adding:

"Section 58-33-299. A base load review application or petition for modification may not be filed after the effective date of this section.

Section 58-33-300. (A) In a proceeding in which a utility seeks to recover costs associated with an abandoned base load plant or other project:

(1) the commission shall determine if abandonment was prudent and, if so, the point in time when it became prudent to abandon the plant or project; and

(2) the utility bears the burden of proving, by clear and convincing evidence, the timeliness of its decision to abandon the plant or project.

Section 58-33-305. In all proceedings, the utility bears the utmost duty of candor to the Commission regarding the management and disclosure of material facts that bear upon costs and risks of costs that are sought to be recovered from ratepayers. If the utility is found to have failed in its duty of candor, the Commission is authorized to account for any increased cost to ratepayers in the ratemaking order."

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

"CHAPTER 41
South Carolina Public Utility Consumer Advocate Office

Section 58-41-10. The General Assembly finds that:

(1) utility costs have risen sharply, severely impacting the budgets of residential and business consumers.

(2) public utility consumers need an effective advocate to represent their interests in securing safe, reliable, and affordable utility services at nondiscriminatory rates before the South Carolina Public Service Commission and in other utility-related proceedings.

(3) public utility consumers would best be represented by the newly established Public Utility Consumer Advocate Office within the Office of the Attorney General.

Section 58-41-20. As used in this chapter, the term:

(1) 'Commission' means the Public Service Commission of the State of South Carolina.

- (2) 'Consumer' means any person who is a direct user or is the ultimate recipient of a product or a service supplied by a public utility subject to the authority of the commission or a direct user or ultimate recipient of a product or service supplied by a public utility subject to the authority of the commission that may be affected in any way by any action within the authority of the commission.
- (3) 'Low-income consumer' means a residential consumer with an annual household income that is less than or equal to one hundred and fifty percent of the federal poverty level.
- (4) 'Public utility' means public utility as defined in Section 58-5-10, or electrical utility as defined in Section 58-27-10.
- (5) 'Residential consumer' means a consumer who takes public utility service for domestic purposes.
- (6) 'Small business consumer' means a consumer that is a small business as defined in Section 1-23-270.

Section 58-41-30. (A) The Public Utility Consumer Advocate Office is established within the Office of the Attorney General.

(B) The Attorney General shall appoint a director to serve as the administrative head of the office. The director shall serve a four-year term beginning on February 1, 2019.

- (1) The director must be a licensed attorney with a minimum experience of three years and is qualified to represent the interest of consumers as a result of training or experience. The appointment of a director must be made without regard to political affiliation and based solely on the candidate's integrity and demonstrated ability in utility law and consumer representation.
- (2) The director may hire attorneys, assistants, professionals, and staff to carry out the duties and responsibilities assigned to the office.
- (3) The director or employee of the office may not, while serving in the position, have a business relationship with or receive any form of income or compensation from a public utility, an affiliate of a utility, or an association representing a utility or have other interests inconsistent with their official responsibilities.
- (4) The director may be removed by the Attorney General for malfeasance, misfeasance, incompetency, absenteeism, a conflict of interest, misconduct, persistent neglect of duties or incapacity. The Attorney General may not otherwise be involved in the operation of the office or influence an official decision of the office.

Section 58-41-40. (A) The Public Utility Consumer Advocate Office shall represent the interests of public utility consumers in proceedings before the commission and before other state and federal courts or agencies concerning public utility-related matters. In performing its duties, the office shall prioritize representing the interests of consumers who are not typically represented or are

inadequately represented in proceedings before the commission, particularly residential, low-income, and small business consumers. For the purposes of this chapter, interests of public utility consumers include:

- (1) holding utility bills to the lowest reasonable level in both the short and long term, considering economic and environmental costs;
- (2) securing safe and reliable utility services at nondiscriminatory rates;
- (3) avoiding or reducing significant utility investment cost risks;
- (4) managing utility bills through conservation, efficiency, clean energy, and technologies that facilitate clean energy and utility bill control; and
- (5) other interests the office feels are material.

(B) Unless and until it chooses not to participate, the office is considered an automatic party of record in all filings, applications, rulemaking actions, or proceedings before the commission that involve changes in public utility service rates or charges, approval for sales or mergers, and requests for permission to purchase power or construct power assets. When considered appropriate by the Director of the Public Utility Consumer Advocate Office and not adverse to consumer interests, the office may choose not to participate in any commission proceeding.

(C) The office may initiate, intervene in, appear in, and participate in commission proceedings and rulemaking actions not described in Section 51-41-40(B), and in filings, applications, and proceedings before federal and state agencies on behalf of South Carolina consumers, if the office deems participation to be in the interest of consumers.

(D) The office may appeal decisions of the commission or applicable regulatory body to a court of law, if the office deems judicial review to be in the interest of consumers.

(E) Whenever the office enters into a settlement agreement in a proceeding before the commission, it shall submit testimony or a filing explaining why the agreement is in the interest of consumers.

(F) The office shall inform, educate, and seek to engage consumers on pertinent utility-related concepts.

(G) The office shall provide to the Attorney General and General Assembly and shall make available to the public an annual report on the conduct of the office. The annual report shall specify the actions taken by the office on behalf of consumers and shall make recommendations as to what changes to the office may be necessary or desirable to further protect consumer interests.

Section 58-41-50. (A) The expenses of the office must be borne by the public utilities subject to the jurisdiction of the office. On or before the first day of July in each year, the Department of Revenue

must assess each public utility its proportion of the expenses in proportion to its gross income from operation in this State in the year ending on the thirtieth day of June preceding that on which the assessment is made which is due and payable on or before July fifteenth. The assessments must be charged against the companies by the Department of Revenue and collected by the department in the manner provided by law for the collection of taxes from the companies including the enforcement and collection provisions of Article 1, Chapter 54, Title 12 and paid, less the Department of Revenue actual incremental increase in the cost of administration into the state general fund as other taxes collected by the Department of Revenue for the State.

(B) The office must certify to the Department of Revenue annually on or before May first the amounts to be assessed.

(C) The appropriation for the office shall be advanced by the State until such time as funds have been collected from the corporations liable and, when collected, must be placed in the state general fund.

(D) To the extent necessary to carry out the office's staff responsibilities, the director is authorized to employ expert witnesses and other professional expertise as the director may consider necessary to assist the office in its participation in commission proceedings. The compensation paid to these persons may not exceed compensation generally paid by the regulated industry for such specialists. The compensation and expenses must be paid by the public utility or utilities participating in the proceedings. The compensation and expenses must be treated by the commission, for ratemaking purposes, in a manner generally consistent with its treatment of similar expenditures incurred by utilities in the presentation of their cases before the commission. An accounting of compensation and expenses must be reported annually to the Attorney General, the Speaker of the House of Representatives, and the Chairman of the Senate Judiciary Committee.

Section 58-41-60. (A) Nothing contained in this chapter shall in any way limit the right of any consumer or intervenor to bring or intervene in a proceeding before either the commission or a court.

(B) Nothing contained in this chapter shall be construed to impair the statutory authority or responsibility of the Office of Regulatory Staff to fulfill its duties under Section 58-5-50, or to impair the statutory authority or responsibility of the commission to regulate public utilities."

SECTION 4. Section 1-11-20(B) of the 1976 Code, as last amended by Act 121 of 2014, is further amended to read:

"(B) Effective July 1, 2018, the State Energy Office is transferred from the State Budget and Control Board to the Office of Regulatory Staff to the executive branch of this State."

SECTION 5. Section 48-52-410 of the 1976 Code, as last amended by Act 121 of 2014, is further amended to read:

"Section 48-52-410. There is established the State Energy Office within the ~~Office of Regulatory Staff~~ executive branch of this State which shall serve as the principal energy planning entity for the state. Its primary purpose is to develop and implement a well-balanced energy strategy and to increase the efficiency of use of all energy sources throughout South Carolina through the implementation of the Plan for State Energy Policy. The State Energy Office must not function as a regulatory body."

SECTION 6. Section 48-52-440 of the 1976 Code, as last amended by Act 121 of 2014, is further amended to read:

"(A) All funds allocated or directed to this State by the federal government relating to energy planning, energy conservation, and energy efficiency must be allocated or directed to the State Energy Office ~~in the Office of Regulatory Staff~~ to be distributed in accordance with the provisions of this section; provided, however, that no funding from the following federal programs is subject to the provisions of this section:

(1) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94, Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of 1993, the Low-Income Home Energy Amendments of 1994, the Coats Human Services Reauthorization Act of 1998, and the Energy Policy Act of 2005, which is administered and funded by the United States Department of Health and Human Services on the federal level and administered locally by community action agencies; or

(2) the Weatherization Assistance Program, created by Title IV of the Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy Act, the Energy Security Act, the Human Services Reauthorization Act of 1984, and the State Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the United States Department of Energy on the federal level and administered locally by community action agencies.

Nothing in this section changes the exclusive administration of the Low Income Home Energy Assistance Program and Weatherization Assistance Program by local community action agencies through the Department of Administration's Office of Economic Opportunity pursuant to its authority under the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(B) All funds described in subsection (A) that are not exempted by items (1) and (2) must be distributed by the State Energy Office ~~in the Office of Regulatory Staff~~ in accordance with all requirements of federal law associated with these funds. Persons seeking to obtain funding for energy related programs must submit to the State Energy Office a plan for the use of the funds in a manner consistent with the provisions of this section.

(C) Upon receipt of the plans required by subsection (B), the State Energy Office ~~of the Office of Regulatory Staff~~ must prepare an analysis of the plans and their consistency with the provisions of this

section and submit that analysis to the Department Advisory Council for its review and recommendations.

(D) There is hereby created in the ~~Office of Regulatory Staff~~ executive branch of this State the Energy Advisory Council, which will advise the State Energy Office on all matters for which the State Energy Office is responsible and specifically with respect to its review of the annual plans required to be submitted pursuant to this section. The Advisory Council shall be composed of nine members as follows:

(1) three appointed by the Governor, one of whom must have a substantial background in environmental or consumer protection matters;

(2) three appointed by the President Pro Tempore of the Senate, one of whom must have a substantial background in environmental or consumer protection matters; and

(3) three appointed by the Speaker of the House of Representatives, one of whom must have a substantial background in environmental or consumer protection matters.

All appointees must have backgrounds in environmental issues; the electricity, transportation, or natural gas industries; or economic development related to these sectors.

(E) In evaluating the plans required by this section, the Advisory Council shall consider the extent to which the plans allocate funds in a cost effective manner and promote the following alternative sources of domestic energy or avoidance of consumption of energy:

(1) the development of energy efficiency and conservation;

(2) renewable sources of energy, including wind power, solar power, energy from biomass sources, and energy storage;

(3) nuclear energy; and

(4) alternative fuels or power sources for the transportation sector.

In considering the cost-effectiveness of the plans the Advisory Council must consider the cost of the proposed measures as to the expected useful life of the measures being proposed and the impact of the proposed measures on consumers. For each proposed plan, the Advisory Council must consider the value of the avoided cost of complying with anticipated state and federal environmental regulations.

(F) Upon completion of its review of plans submitted in compliance with this section, the Advisory Council must prepare a report describing the results of its review and submit copies of that report to the State Energy Office ~~of the Office of Regulatory Staff~~ and the Public Utility Review Committee of Article 5, Chapter 3, Title 58.

(G) The ~~Executive Director of the Office of Regulatory Staff~~ State Energy Office shall make the final determinations of distributions of funds as required by this section, taking into account the recommendations of the Advisory Council. Grant awards shall be made in a manner consistent with this section."

SECTION 7. Section 48-52-460 of the 1976 Code, as last amended by Act 121 of 2014, is further amended to read:

"Section 48-52-460. The establishment of the State Energy Office ~~within the Office of Regulatory Staff~~, as provided for in this part, must be evaluated if restructuring or reorganizing of state government takes place so as to identify and provide for the proper placement of the office upon restructuring or reorganizing."

SECTION 8. Section 58-33-110 of the 1976 Code is amended to read:

"Section 58-33-110. (1) No person shall commence to construct a major utility facility without first having obtained a certificate issued with respect to such facility by the Commission. The replacement of an existing facility with a like facility, as determined by the Commission, shall not constitute construction of a major utility facility. Any facility, with respect to which a certificate is required, shall be constructed, operated and maintained in conformity with the certificate and any terms, conditions and modifications contained therein. A certificate may only be issued pursuant to this chapter; provided, however, any authorization relating to a major utility facility granted under other laws administered by the Commission shall constitute a certificate if the requirements of this chapter have been complied with in the proceeding leading to the granting of such authorization.

(2) A certificate may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

(3) A certificate may be amended.

(4) This chapter shall not apply to any major utility facility:

(a) the construction of which is commenced within one year after January 1, 1972; or

(b) for which, prior to January 1, 1972, an application for the approval has been made to any Federal, State, regional or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in subsection (1) of Section 58-33-160.

(c) for which, prior to January 1, 1972, a governmental agency has approved the construction of the facility and indebtedness has been incurred to finance all or part of the cost of such construction; or

(d) which is a hydroelectric generating facility over which the Federal Power Commission has licensing jurisdiction.

(5) Any person intending to construct a major utility facility excluded from this chapter pursuant to subsection (4) of this section may elect to waive the exclusion by delivering notice of the waiver to the commission. This chapter shall thereafter apply to each major utility facility identified in the notice from the date of its receipt by the commission.

(6) The commission shall have authority to waive the normal notice and hearing requirements of this chapter and to issue a certificate on an emergency basis if it finds that immediate construction of a major utility facility is justified by public convenience and necessity; provided, that the Public Service Commission shall notify all parties concerned under Section 58-33-140 prior to the issuance of such certificate; provided, further, that the Commission may subsequently require a modification of the facility if, after giving due consideration to the major utility facility, available technology and the economics involved, it finds such modification necessary in order to minimize the environmental impact.

(7) The commission shall have authority, where justified by public convenience and necessity, to grant permission to a person who has made application for a certificate under Section 58-33-120 to proceed with initial clearing, excavation, dredging and construction; provided, however, that in engaging in such clearing, excavation, dredging or construction, the person shall proceed at his own risk, and such permission shall not in any way indicate approval by the commission of the proposed site or facility.

(8) The commission may not approve cost recovery in rates for any new major utility facility without first finding that the facility is used and is useful to the utility's ratepayers in the provision of utility services and the costs incurred by the utility were prudently incurred. A utility seeking cost recovery in rates for a major utility facility bears the burden of proving the prudence of its decision to construct or acquire the facility and the prudence of the management of that construction or acquisition throughout the construction period until the facility is used and useful in the provision of utility service to its ratepayers."

SECTION 9. Section 58-33-220 of the 1976 Code is amended to read:

"Section 58-33-220. The following terms, when used in this article, shall have the following meanings, unless another meaning is clearly apparent from the context:

(1) 'Allowance for Funds used During Construction' or 'AFUDC' means the allowance for funds used during construction of a plant calculated according to regulatory accounting principles.

(2) 'Base load plant' or 'plant' means a new coal or nuclear fueled electrical generating unit or units or facility that is designed to be operated at a capacity factor exceeding seventy percent annually, has a gross initial generation capacity of three hundred fifty megawatts or more, and is intended in whole or in part to serve retail customers of a utility in South Carolina, and for a coal plant, includes Best Available Control Technology, as defined by the United States Environmental Protection Agency, for the control of air emissions.

- (3) 'Base load review application' or 'application' means an application for a base load review order under the terms of this article.
- (4) 'Base load review order' means an order issued by the commission pursuant to Section 58-33-270 establishing that if a plant is constructed in accordance with an approved construction schedule, approved capital costs estimates, and approved projections of in-service expenses, as defined herein, the plant is considered to be used and useful for utility purposes such that its capital costs are prudent utility costs and are properly included in rates.
- (5) 'Capital costs' or 'plant capital costs' means costs associated with the design, siting, selection, acquisition, licensing, construction, testing, and placing into service of a base load plant, and capital costs incurred to expand or upgrade the transmission grid in order to connect the plant to the transmission grid and includes costs that may be properly considered capital costs associated with a plant under generally accepted principles of regulatory or financial accounting, and specifically includes AFUDC associated with a plant and capital costs associated with facilities or investments for the transportation, delivery, storage, and handling of fuel.
- (6) 'Combined application' means a base load review application which is combined with an application for a certificate under the Utility Facility Siting and Environmental Protection Act, or which involves a plant located outside of the State of South Carolina, and at the utility's option may be combined with an application for new electric rates under Section 58-27-860.
- (7) 'Combined proceeding' means a proceeding to consider all aspects of a combined application.
- (8) 'Construction work in progress' means capital costs as defined above associated with a base load plant which have been incurred but have not been included in the utility's plant-in-service.
- (9) 'General rate proceeding' means a proceeding under Section 58-27-810 and other applicable provisions for the establishment of new electric rates and charges, and where orders in general rate proceedings are referenced in this article, these orders include rate orders issued in proceedings or combined proceedings under this article.
- (10) 'In-service expenses' means reasonably projected expenses recognized under generally accepted principles of regulatory and financial accounting as a result of a plant commencing commercial operation, including:
- (a) expenses associated with operating and maintaining a plant, as well as taxes and governmental charges applicable to the plant including taxes other than income taxes;
 - (b) depreciation and amortization expenses related to the plant;
 - (c) revenue requirements related to the utility's cost of capital applied to the investment in supplies, inventories, and working capital associated with the plant; and

(d) other costs determined by the commission to be appropriate for ratemaking purposes. In-service expenses include, but are not limited to, labor, supplies, insurance, general and administrative expenses, and the cost of outside services, but do not include costs recovered as fuel costs pursuant to Section 58-27-865.

(11) 'Person' means any individual, group, firm, partnership, or corporation.

(12) 'Preconstruction costs' means all costs associated with a potential nuclear plant incurred before issuance of a final certificate under the Utility Facility Siting and Environmental Protection Act, including, without limitation, the costs of evaluation, design, engineering, environmental and geotechnical analysis and permitting, contracting, other required permitting including early site permitting and combined operating license permitting, and initial site preparation costs and related consulting and professional costs, and shall include AFUDC associated with those costs. For potential nuclear plants located in other states, the costs must be those incurred before issuance of a certificate by the host state under statutes comparable to the Utility Facility Siting and Environmental Protection Act.

(13) 'Proceeding' means the proceeding to consider an application filed under this chapter.

(14) 'Project development application' means an application for a project development order.

(15) 'Project development order' means an order establishing the prudence of a utility's decision to incur preconstruction costs associated with a nuclear plant or potential nuclear plant.

(16) 'Prudence' means a standard of judgment, management, and action which is reasonable under the circumstances based on what was known or should have been known at the time a decision was made or action was taken. Prudence implies a standard or duty of care owed to others. In cases where the risk of harm to public safety or economic risk to ratepayers is high, the duty of care is correspondingly high.

(17) 'Return on equity' means the return on common equity established in the base load review order for a plant. But, if the order in the utility's most recent general rate proceeding was issued no more than five years before the date of filing of the application or combined application, or if such an order is issued after the application, combined application or base load review order related to the plant is filed, then at the utility's option, the rate of return on common equity established in that order shall be the rate of return used for computing future rate revisions under this article. A project-specific return on equity set hereunder shall apply exclusively to the establishment of the weighted average cost of capital under this article and shall not be used for reporting or any other purpose.

~~(17)~~(18) 'Revised rates' means a revised schedule of electric rates and charges reflecting a change to the utility's then current nonfuel rates and charges to add incremental revenue requirements related to a base load plant as authorized in this article. For a nuclear plant under construction, until it enters commercial operation the rate adjustments related to the plant shall include recovery of the weighted average cost of capital applied to the outstanding balance of capital costs of that plant only and shall

not include depreciation or other items constituting a return of capital to the utility. For a coal plant, no revised rates shall be allowed except that an adjustment under Section 58-33-280(J)(1) shall be permitted to take effect on or after the date commercial operations of the plant commence.

~~(18)~~(19) 'Revised rates order' means an order issued by the commission approving, modifying, or denying the utility's request to charge revised rates under this article, which revised rates order an aggrieved party may contest in an adversarial hearing before the commission.

~~(19)~~(20) 'Revised rates proceedings' means all proceedings to consider an application for revised rates or review of a revised rates order.

~~(20)~~ (21) '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.

~~(21)~~(22) 'Utility Facility Siting and Environmental Protection Act' means Section 58-33-10 and other applicable provisions of this chapter.

~~(22)~~(23) 'Weighted average cost of capital' or 'cost of capital' means the utility's average cost of debt and equity capital:

- (a) incorporating the return on equity;
- (b) incorporating the utility's current weighted average cost of debt;
- (c) weighting (a) and (b) according to the utility's capital structure for ratemaking purposes, as established in the order in the utility's last general rate proceeding, updated to reflect the utility's current levels of debt and equity capital; and
- (d) adjusting the result for the effect of income taxes."

SECTION 10. Section 58-33-270(F) of the 1976 Code is amended to read:

"(F) The commission shall consider a request under Section 58-33-270(E) in a new docket which pursuant to Section 58-33-240 must be subject to the requirement that the relief requested in this article is considered granted if not denied by order within six months of the date of filing. 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. However, if a party alleges, by motion, that the duty of candor and transparency has been breached and the commission does not dismiss the motion within thirty days, the relief requested is not considered granted. If the commission does not deny the motion within six months, it remains under

consideration until the commission issues its determination regarding the just and reasonable disposition of the relief after giving the motion complete and due consideration."

SECTION 11. Section 58-37-10 of the 1976 Code is amended to read:

"Section 58-37-10. As used in this chapter unless the context clearly requires otherwise:

(1) 'Demand-side activity' means a program conducted or proposed by a producer, supplier, or distributor of energy for the reduction or more efficient use of energy requirements of the producer's, supplier's, or distributor's customers, including, but not limited to, conservation and energy efficiency, load management, cogeneration, and renewable energy technologies.

(2) 'Integrated resource plan' means a plan which contains the demand and energy forecast for at least a fifteen-year period, contains the supplier's or producer's program for meeting the requirements shown in its forecast in an economic and reliable manner, including both demand-side and supply-side options, ~~with a brief description and summary cost-benefit analysis, if available, of each option which was considered, including those not selected, sets forth the supplier's or producer's assumptions and conclusions with respect to the effect of the plan on the cost and reliability of energy service, and describes the external environmental and economic consequences of the plan to the extent practicable. For electrical utilities subject to the jurisdiction of the South Carolina Public Service Commission, this definition must be interpreted in a manner consistent with the integrated resource planning process adopted by the commission. For electric cooperatives subject to the regulations of the Rural Electrification Administration, this definition must be interpreted in a manner consistent with any integrated resource planning process prescribed by Rural Electrification Administration regulations.~~

(3) 'Energy efficiency' means a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services."

SECTION 12. Section 58-37-20 of the 1976 Code is amended to read:

"Section 58-37-20. (A) As used in this section:

(1) 'Cost effective' means that the energy efficiency portfolio or program being evaluated meets the 'utility cost test,' or the 'resource value test' if established.

(2) 'Electric utility' means any investor-owned utility and the South Carolina Public Service Authority.

(3) 'Energy efficiency portfolio' means the set of energy efficiency programs offered by a utility including, but not limited to, peak demand reduction programs, that includes offerings for each customer class including, but not limited to, low-income residential customers.

(4) 'Net savings' means energy savings confirmed as resulting from the utility's energy efficiency programs by an industry best practice process of evaluation, measurement, and verification of the total change in energy use (and/or demand) that is attributable to an energy efficiency program.

(5) 'Peak demand reduction programs' means any of the following:

(a) programs designed to reduce peak demand through load curtailment or direct load control;

(b) programs designed to shift load from on-peak to off-peak periods including demand response programs; or

(c) energy efficiency programs specifically designed to achieve savings during peak time periods.

(6) 'Utility cost test' means a standard that is met for an investment in energy efficiency portfolios if, on a net present value basis, the total avoided supply-side costs including representative values for electricity or natural gas supply, transmission, distribution, and other associated costs, are greater than the total costs incurred by the program administrator including program costs and incentive costs borne by the administrator.

(B)(1) For each calendar year between 2019 and 2023, electric utilities shall implement energy efficiency programs that achieve net electric energy savings equivalent to at least the following applicable percentages:

<u>Year</u>	<u>Incremental Electricity Savings Target</u>	<u>Cumulative Electricity Savings Target</u>
<u>2019</u>	<u>0.50%</u>	<u>0.50%</u>
<u>2020</u>	<u>0.75%</u>	<u>1%</u>
<u>2021</u>	<u>1.00%</u>	<u>2%</u>
<u>2022</u>	<u>1.25%</u>	<u>2.25%</u>
<u>2023</u>	<u>1.50%</u>	<u>3.75%</u>

(2) In subsequent years all electric utilities shall continue to achieve energy savings targets that are no less than the 2023 target. For all electric utilities subject to South Carolina Public Service Commission jurisdiction, the commission shall establish continuing energy savings targets for electric utilities that implement achievable cost effective energy efficiency, provided that the targets are at least as large as the 2023 target.

(3) The baseline for the energy savings percentage reduction targets under subsection (B)(1) is the total retail kilowatt-hours the electric public utility delivered in the preceding calendar year to customers in this State.

(4) The cumulative electricity savings for a given year is the total verified savings achieved in that year including ongoing energy savings from measures installed beginning in 2019.

(C)(1) Within ninety days after the effective date of this section, the South Carolina Public Service Commission shall promulgate any rules necessary to specify the procedure for utilities subject to the jurisdiction of the commission to develop, submit, and obtain approval for an energy efficiency plan to meet the energy efficiency performance standard set forth in this section.

(2) The South Carolina Public Service Commission may establish a rule to develop a 'Resource Value Test' following guidelines set out in the National Standard Practice Manual published by the National Efficiency Screening Project. The rule shall specify a test to be applied:

(a) at the portfolio level for purposes of demonstrating that the utility's portfolio is cost-effective; and

(b) no less than one test at the program level for purposes of evaluation and review of specific energy efficiency programs.

(D) Utilities shall submit energy efficiency plans within six months of the passage of this section and triennially thereafter. An energy efficiency plan shall:

(1) Propose a set of energy efficiency programs, including peak demand reduction programs, that include offerings for each customer class. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory.

(a) Low-income residential programs shall seek to maximize participation levels and participant bill savings and seek to achieve total portfolio energy savings from low-income residential programs that are at least in proportion to the percentage of the residential class comprised of low-income customers.

(b) When considering the cost-effectiveness of low-income residential programs under the utility cost test, the commission may also consider such additional participant, non-energy or societal benefits as the commission considers just and consistent with state energy and economic policy goals;

(2) provide estimated budgets for necessary funding levels for proposed energy efficiency programs;

(3) demonstrate that proposed energy efficiency programs and funding are sufficient to ensure the achievement of applicable energy efficiency performance standards;

- (4) demonstrate that the utility's energy efficiency portfolio as a whole, and each energy efficiency program within the portfolio, will be cost-effective; provided that pilot programs using less than ten percent of the portfolio budget need not be cost effective and that cost-effectiveness testing of programs designed primarily to serve low-income residential customers may include additional benefits that are reflective of the impacts of those programs;
- (5) provide for the practical and effective administration of the proposed energy efficiency programs. The Commission shall allow utilities flexibility in designing their energy efficiency programs and administrative approach. A utility's energy efficiency programs or any part thereof, may be administered, at the utility's option, by the utility, alone or jointly with other utilities, or by an appropriate, experienced organization selected after a competitive bid process;
- (6) include a process for measurement and verification of incremental energy savings from each energy efficiency program. All such evaluations shall be subject to public review and Commission oversight;
- (7) specify how the utility will ensure that customers, including low-income residential customers, have access to financing adequate to enable the utility's portfolio to maximize energy savings while remaining cost-effective. Utilities shall consider financing options, including tariff-based on-bill financing options that do not require residential customers to:
- (a) pay up-front costs for efficiency measures;
 - (b) assume any debt obligations; and
 - (c) pay more in tariffed charges than the estimated bill savings that those efficiency measures generate, based where appropriate, for the measures being offered, on an energy audit performed by an energy auditor certified by the Building Performance Institute or similar organization and subject to third-party verification of completed energy efficiency measures for a random sample of participating residences. Utilities shall implement the financing options that maximize utility portfolio energy savings and provide participating customer bill savings; and
- (8) coordinate with other utilities and organizations, where possible, to maximize cost-effectiveness and program participation including, but not limited to, electric cooperatives, the South Carolina Public Service Authority, municipalities or municipal boards or commissions of public works that own and operate an electric utility system, and other state or local agencies or organizations and institutions that promote, facilitate, address, or specialize in energy efficiency measures, programs, financing and technologies. Coordination is not restricted to the State of South Carolina and may include joint program implementation or other collaborative activities that enhance customer access and participation or that improve cost-effectiveness.
- (E) At a time determined by the Public Service Commission, each utility subject to the jurisdiction of the commission shall submit to the commission an annual report that provides information relating to the actions taken by the utility to comply with the energy efficiency performance standards. The

commission shall review its reporting requirements every five years. The annual report shall include the following information, both at the aggregate portfolio level and customer class level:

(1) the estimated annual incremental net and gross electricity and natural gas savings achieved by the utility through energy efficiency programs provided during the reporting period;

(2) the estimated incremental and total peak reduction achieved through peak demand reduction programs during the reporting period;

(3) expenditures made on energy efficiency and peak demand reduction programs during the reporting period and anticipated future expenditures to comply with this subsection;

(4) the cost effectiveness of implemented programs; and

(5) any other information that the commission determines necessary.

(F) No more than three years after the effective date of this section and every three years after, the Office of Regulatory Staff shall produce a report that includes the following information:

(1) a summary of data collected under this section, including the required annual reports;

(2) the status of energy efficiency in this State;

(3) a comparison of the cost of the energy efficiency and the cost of electricity from a new nuclear generating facility and a new combined-cycle natural gas generating facility for the total portfolio of energy efficiency programs;

(4) an evaluation of whether the energy efficiency programs have been cost effective;

(5) an evaluation of the average impact of the programs on customer bills, taking into account any offsetting reductions in fuel costs or other cost impacts;

(6) an estimate of the number of customers that are energy efficiency program participants and the number of customers that have not been energy efficiency program participants, and a forecast of at least five years of anticipated participation rates;

(7) a description of the impact of requiring energy efficiency programs on employment in this state. The Office of Regulatory Staff shall consult with other appropriate agencies of the department of labor and economic growth in the development of this information; and

(8) recommendations the Office of Regulatory Staff may have concerning amendments to this section, including changes in the performance standard percentage limits under subsection (B).

(G) The South Carolina Public Service Commission may adopt procedures that encourage electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to invest in cost-effective energy efficient technologies and energy conservation programs. If adopted, these procedures must: provide incentives and cost recovery for energy suppliers and distributors who invest in energy supply and end-use technologies that are cost-effective, environmentally acceptable, and reduce energy consumption or demand; allow energy suppliers and distributors to recover costs and obtain a reasonable rate of return on their investment in qualified demand-side management programs sufficient to make these programs at least as financially attractive as construction of new generating facilities; require the Public Service Commission to establish rates and charges that ensure that the net income of an electrical or gas utility regulated by the commission after implementation of specific cost-effective energy conservation measures is at least as high as the net income would have been if the energy conservation measures had not been implemented. ~~For purposes of this section only, the term 'demand-side activity' means a program conducted by an electrical utility or public utility providing gas services for the reduction or more efficient use of energy requirements of the utility or its customers including, but not limited to, utility transmission and distribution system efficiency, customer conservation and efficiency, load management, cogeneration, and renewable energy technologies.~~

(H) The South Carolina Public Service Authority Board shall formally consider and adopt guidelines reflecting the general objectives of Section 58-37-20(B) through (G), and any methodology promulgated in adopting an energy efficiency plan, measuring and verifying electric savings, and reporting compliance with the energy efficiency performance standards. The South Carolina Public Service Authority Board shall adopt an energy efficiency plan within six months of the passage of this section and triennially thereafter and shall report their plan to the State Energy Office. The South Carolina Public Service Authority Board shall adopt procedures and standards for defining and measuring eligible electricity savings within one year of the passage of this section and shall report their plan to the State Energy Office. The South Carolina Public Service Authority is authorized and encouraged to coordinate with investor-owned electric utilities, electric cooperatives, municipalities or municipal boards or commissions of public works that own and operate an electric utility system, and other state or local agencies or organizations and institutions that promote, facilitate, address, or specialize in energy efficiency measures, programs, financing and technologies. Coordination is not restricted to the State of South Carolina and may include joint program implementation or other collaborative activities that enhance customer access and participation or that improve cost-effectiveness. The South Carolina Public Service Authority Board shall file an annual report with the State Energy Office that provides information relating to the actions taken by the utility to comply with the energy efficiency performance standards under subsection (B)."

SECTION 13. Section 58-37-40 of the 1976 Code is amended to read:

"Section 58-37-40. (A) As used in this section:

(1) 'Demand-side management' means all energy efficiency measures and all demand response measures undertaken by a utility.

(2) 'Modeling horizon' means the time period over which cost modeling was performed for the purpose of evaluating and presenting the cost of each resource portfolio.

(3) 'Planning horizon' means the timespan of the integrated resource plan, which must be no less than fifteen years.

(4) 'Resource portfolio' means an annual schedule of the resources the utility may employ to meet its service obligations, including additions and retirements of generation units, demand-side management programs, and renewable energy resources that may be utility-owned or purchased from third parties.

(5) 'Scenario' means a collection of assumptions about future circumstances that may affect the cost, reliability, or provision of service, such as fuel prices, gross load obligations, technology costs, policy and regulations that may be used to explore conditions outside of the control of utility management.

(6) 'Sensitivity' means the variation of an isolated assumption while holding all other assumptions constant in order to understand the effect of the assumption on the performance of each resource portfolio.

(7) 'Utility cost test' means a standard that is met for an investment in energy efficiency portfolios or programs if, on a net present value basis, the total avoided supply-side costs, including representative values for electricity or natural gas supply, transmission, distribution, and other associated costs, are greater than the total costs incurred by the program administrator, including program costs and incentive costs borne by the administrator.

(8) 'Resources' means all supply-side and demand-side measures used to meet electric system requirements, whether utility-owned or purchased, including, but not limited to, electric generation and capacity, storage, demand-side activities, and transmission systems.

(B)(1) Electrical utilities must prepare Integrated Resource Plans (IRP) that contain a description of the load forecast, including a description of the material assumptions underlying the forecast, the components of the load forecast by customer class, and the methodology used to produce the forecast. If prior IRP load forecasts demonstrate a pattern of significantly exceeding or underestimating load for more than three years in a row, the IRP shall discuss the reasons for that deviation and describe any changes in the forecast methodology necessary to improve the forecast. The IRP must be submitted to the commission every three years and updated on an annual basis.

(2) The IRP shall consider a range of resource portfolios. The resource portfolios shall vary in the mix of resources used to serve customers, and shall represent a reasonable range of strategies for meeting service obligations considering all available utility-owned, customer-owned, market-based, and demand-side management resources. These resource portfolios must take into account retirement dates for any uneconomical infrastructure. The IRP shall transparently describe each resource portfolio.

- (3) The IRP shall include transparent cost assumptions for each considered resource portfolio, including all data input assumptions over the modeling horizon that materially affect resource selection and cost outcomes. Resource portfolio cost evaluations include, but are not limited to, annual system revenue requirements for the modeling horizon and overall net present value of revenue requirements for the modeling horizon.
- (4) The IRP shall model, evaluate, and present the cost of each resource portfolio under each of a range of scenarios that represent possible future circumstances and that reflect the most significant foreseeable risks facing the utility and its ratepayers. These scenarios include any relevant sensitivity cases such as, but not limited to, higher and lower fuel and technology prices, higher and lower load growth, and costs necessary to comply with environmental or other regulations. Each resource portfolio shall be evaluated under each scenario. The IRP shall transparently describe the assumptions for each scenario and sensitivity, including all data input assumptions over the modeling horizon that materially affect resource selection and cost outcomes.
- (5) In at least one resource portfolio, the IRP shall model the maximum achievable level of cost-effective demand-side management using the utility cost test for the planning horizon.
- (6) The IRP may model, evaluate, and present a range of distribution system plans.
- (7) The IRP shall identify, within an action plan, those additional supply-side and demand-side resources that it actually intends to acquire during the next five years.
- (8) The utility shall hold a series of public meetings, prior to the development of the IRP. Within six months of the enactment of this section, the commission shall, by rule or order, establish a process for utilities to give proper notice prior to the meetings, to allow public comment and written response by the utility, and to provide any further public participation in the IRP process that may improve IRPs generally or assist the commission.
- (a) The meetings shall be facilitated by an independent third-party consultant to the commission with expertise in utility resource planning. The independent facilitator shall report to the commission the substance of the discussion after each meeting, including public feedback and recommendations. The commission process shall allow for written public comments at each stage.
- (b) At minimum, one public meeting must focus on the utility's proposed methodology and model inputs, a second public meeting must focus on draft resource portfolios and a third public meeting must focus on draft scenarios and sensitivities.
- (c) The utility shall file its proposals with the commission at least fifteen days prior to each public meeting and provide public access to sufficiently detailed information such that a reasonably informed individual may be able to compare the methods, assumptions and results used by one utility related to each requirement of this section to another utility.

(d) After the public meetings, the utility shall submit a draft IRP to the commission for review. After appropriate review and commentary by the Office of Regulatory Staff and any intervening parties, the commission shall by order either accept, deny, or seek to modify the load forecast, resource cost assumptions, range of resource portfolios, and range of scenarios and sensitivities contained in the IRP. Approval of those assumptions does not constitute approval of the action plan or of the IRP as a whole. Electric utilities must submit their plans to the State Energy Office.

(C) ~~Electrical utilities and~~ The South Carolina Public Service Authority must prepare integrated resource plans that meets the requirements set out in subsection (B). However, the Board of the South Carolina Public Service Authority shall establish an opportunity for the public to comment on the plan. The Public Service Authority does not have to submit their plan to the commission, but it is authorized and encouraged to collaborate with the commission in establishing a joint public participation process and may participate in the selection and funding of the independent facilitator by joint agreement. The South Carolina Public Service Authority and electrical utilities regulated by the Public Service Commission must submit their plans to the State Energy Office. The plan submitted by the South Carolina Public Service Authority must be developed in consultation with electric cooperatives and ~~municipally-owned~~ municipally owned electric utilities purchasing power and energy from the authority and must include the effect of demand-side management activities of electric cooperatives and ~~municipally-owned~~ municipally owned electric utilities which directly purchase power and energy from the authority or sell power and energy which the authority generates. All plans must be submitted every three years and must be updated on an annual basis. The first integrated resource plan of the South Carolina Public Service Authority must be submitted no later than June 30, 1993. An integrated resource plan may be patterned after the integrated resource planning process developed by the Public Service Commission. For electrical utilities subject to the jurisdiction of the commission, submission of their plans as required by the commission constitutes compliance with this section. Nothing in this subsection 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 South Carolina Public Service Commission to prepare and submit an integrated resource plan.

(B)(D) Electric cooperatives and municipally-owned electric utilities must submit integrated resource plans to the State Energy Office whenever they are required by federal law to prepare these plans or if they plan to acquire, by purchase or construction, ownership of additional generating capacity greater than twelve megawatts per unit. An integrated resource plan must be submitted to the State Energy Office by an electric cooperative or municipally-owned electric utility twelve months before the acquisition, by purchase or construction, of additional generating capacity in excess of twelve megawatts per unit. For an electric cooperative, submission to the State Energy Office of its plan in a format complying with the then current Rural Electrification Administration regulations constitutes compliance with this section.

(C)(E) The State Energy Office, to the extent practicable, shall evaluate and comment on external environmental and economic consequences of each integrated resource plan submitted and on the environmental and economic consequences for suppliers and distributors.

~~(D)~~(F) The State Energy Office shall coordinate the preparation of an integrated resource plan for the State and shall coordinate with regional groups, including the Southern States Energy Board.

~~(E)~~(G) The State Energy Office must not exercise any regulatory authority with regard to the requirements set forth in this chapter."

SECTION 14. 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 15. This act takes effect upon approval by the Governor.

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