

**South Carolina General Assembly**  
124th Session, 2021-2022

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**Bill 3194**

~~Indicates Matter Stricken~~

Indicates New Matter

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~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

January 26, 2021

**H. 3194**

Introduced by Reps. Lucas, G.M. Smith, Simrill, Rutherford, Thigpen, McCravy, McGarry, B. Newton, Long, Yow and Carter

S. Printed 1/26/21--H. [SEC 1/27/21 1:27 PM]

Read the first time January 12, 2021.

**A BILL**

TO AUTHORIZE THE SALE OF THE ASSETS OF THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY AND THE ASSUMPTION OR DEFEASMENT OF ITS LIABILITIES OR THE MANAGEMENT OF THE OPERATIONS OF THE PUBLIC SERVICE AUTHORITY BY A THIRD PARTY OR ENTITY; TO CREATE A SPECIAL COMMITTEE OF THE GENERAL ASSEMBLY TO FURTHER NEGOTIATE THE TERMS AND CONDITIONS OF THE PREFERRED SALE RECOMMENDATION OF THE DEPARTMENT OF ADMINISTRATION REGARDING THE PUBLIC SERVICE AUTHORITY AND THE PREFERRED MANAGEMENT RECOMMENDATION OF THE DEPARTMENT OF ADMINISTRATION REGARDING THE PUBLIC SERVICE AUTHORITY, TO PROVIDE THAT THE SPECIAL COMMITTEE SHALL REPORT ONE RECOMMENDATION TO EACH HOUSE OF THE GENERAL ASSEMBLY FOR ITS APPROVAL, AND TO PROVIDE FOR THE MANNER IN WHICH THE SELECTED PROPOSAL SHALL TAKE EFFECT; AND TO AMEND CHAPTER 31, TITLE 58, CODE LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PUBLIC SERVICE AUTHORITY, SO AS TO FURTHER PROVIDE FOR THE GOVERNANCE AND OPERATIONS OF THE AUTHORITY IN CERTAIN PARTICULARS.

Amend Title To Conform

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

Part I

SECTION 1. The General Assembly authorizes the sale of the assets of the South Carolina Public Service Authority and the assumption or defeasment of its liabilities in the manner provided by this act.

## Part II

SECTION 2. A. A special committee is hereby created to be composed of six members, three from each House, to be selected by each body in the same manner members of conference committees are selected by that body. The duties and responsibilities of the special committee are to consider offers for the sale of some or all of the assets of the Public Service Authority of South Carolina and to further negotiate the terms and conditions of any offer for the sale of some or all of the assets of the Public Service Authority of South Carolina. The special committee shall adopt and set its own rules of procedure. Upon approval of any offer for the sale of some or all of the assets of the Public Service Authority of South Carolina, the special committee shall issue a recommendation and report to the General Assembly. This recommendation and report may be accepted and approved by each House in the same manner conference committee reports are accepted and approved. Upon approval of the special committee report by the General Assembly, the report also must be transmitted to the Governor for his approval in the same manner enactments are presented to him under Article IV of the Constitution of this State. The Department of Administration shall execute on behalf of the State of South Carolina the documents necessary to effectuate any sale proposal approved in the manner provided in this section. The special committee shall have the authority to remain in existence until dissolution and consider any future offers for the sale of some or all of the assets of the Public Service Authority.

B. The Special Committee shall continue in existence unless terminated as provided in this section and shall be authorized to consider any future offers for the sale of some or all of the assets of the Public Service Authority. The provisions of this section expire ten years after the effective date of this section unless extended or reenacted by the General Assembly before this date.

C. The Special Committee may not accept and the General Assembly may not approve any offer to purchase the assets of the Public Service Authority or any portion thereof which offer is made contingent upon the reenactment of the Base Load Review Act or any similar variation of the Base Load Review Act containing comparable provisions.

SECTION 3. In the event the provisions of this act and the provisions of Act 95 of 2019 conflict, the provisions of this act shall control.

## Part III

SECTION 4. Various provisions of Title 58 of the 1976 Code or other provisions are amended or added as follows:

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

"Section 58-31-20. (A) 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~~ General Assembly as follows: one registered voter from each congressional district of the State; and one from each of the counties of Horry, Berkeley, and Georgetown who reside in and are registered to vote in authority territory and are customers of the authority; ~~and two from the State at large, one of whom must be chairman. Two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative. A director shall not serve as an employee or board member of an electric cooperative during his term as a director~~ Two of the directors from the congressional districts must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative. The board also shall have one director recommended to the Governor by

the South Carolina Manufacturers Alliance to represent industrial customers of the authority, and one director recommended to the Governor by the governing authority of the authority's largest wholesale customer; provided, however, these two directors may not be an employee, counsel, or board member of a customer served by the authority.

A director shall not serve as an employee or board member of an electric cooperative during his term as a director. Each director shall serve for a term of ~~seven~~ five years, and shall not serve more than two consecutive terms 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 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 General Assembly, and the successor-director shall hold office for the remainder of the unexpired term. 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. A director may not receive a salary for services as a director. However, the authority, by vote at a regularly scheduled meeting, may choose to grant the director compensation based upon the availability of funds in excess of the previous year's operational costs. This compensation must be reasonably based upon the financial performance of the authority in the previous fiscal year. Directors may receive reimbursement from the authority for actual expenses associated with their service as directors.~~ Members of the board of directors may be removed for cause, pursuant to Section 1-3-240(C) or a violation of Section 58-31-55, 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. A director may not have made a campaign contribution to the Governor who appoints them in the election cycle immediately preceding their appointment.~~

In making appointments to the Board of Directors, the Governor in making appointments and the General Assembly in its advice and consent capacity must give due consideration to race, gender, and other demographic factors to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State.

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

(C)(1) Each member must possess abilities and experience that are generally found among directors of energy utilities serving this State and that allow him to make valuable contributions to the conduct of the authority's business. These abilities include substantial business skills and experience, but are not limited to:

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

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

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

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

(2) Each member also 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) consumer protection and advocacy issues;

(iii) water and wastewater issues;

(iv) finance, economics, and statistics;

(v) accounting;

(vi) engineering; or

(vii) law.

(D) For the assistance of the board of directors of the Public Service Authority, there is hereby established an advisory board to be known as the advisory board of the South Carolina Public Service Authority, to be composed of the Governor of the State, the Attorney General, the State Treasurer, the Comptroller General, and the Secretary of State, as ex officio members, who must serve without compensation other than necessary traveling expenses. The advisory board must perform any duties imposed on it pursuant to this chapter, and must consult and advise with the board of directors on any and all matters which by the board of directors may be referred to the advisory board. The board of directors must make annual reports to the advisory board, which reports must be submitted to the General Assembly by the Governor, in which full information as to all of the acts of said board of directors shall be given, together with financial statement and full information as to the work of the authority. On July first of each year, the advisory board must designate a certified public accountant or accountants, resident in the State, for the purpose of making a complete audit of the affairs of the authority, which must be filed with the annual report of the board of directors. The Public Service Authority must submit the audit to the General Assembly.

(E) The following shall be nonvoting ex officio members of the board of directors entitled to attend all meetings of the authority board, including any executive sessions:

(1) The Chair of the Board of Central Electric Cooperative;

(2) The Secretary of Commerce or his designee;

(3) A designee of the Chairs of the Senate Judiciary Committee and the House Labor, Commerce and Industry Committee.

(F) The members of the board annually shall elect a chairman and those officers it deems necessary to serve for terms of one year each in these capacities.

(G) The terms of all current members of the board serving on the effective date of this subsection shall expire at which time their successors must be selected in the manner provided for by this section. However, current board members shall continue to serve until their successors are appointed and qualify, and the two members appointed by the Governor upon recommendation of the Manufacturer's Alliance and upon the recommendation of the authority's largest wholesale customer shall be deemed to be the successors to the two current state at-large members."

B. Section 58-31-30(A)(11) and (12) of the 1976 Code is amended to read:

"(11) to make bylaws for the management and regulation of its affairs, including the establishment of subcommittees of the board of directors to include Finance and Audit, Public Information, Water Services and Resource Management, Generation and Power Supply Planning, and Executive and Governance, each of these making regular reports to the full board of directors at each regular meeting of the full board;

(12) to appoint officers, agents, employees, and servants, to prescribe their duties, and to fix their compensation to select a chief executive officer for the authority who shall cause the authority to employ all necessary employees with the board approving the employment and compensation of any senior management official selected as the chief executive officer;"

C. Section 58-31-30 of the 1976 Code is amended by adding a new subsection (C) to read:

"(C) Any severance package, payment or other benefit of whatever nature conferred upon an executive officer or member of the board of the Public Service Authority, upon his departure as an executive officer or member of the board, whether or not some or all of it is a required payment under an existing employment or other agreement, must be first approved by the Agency Head Salary Commission. A violation of this section is grounds for a claw-back of the payment or benefit conferred in a legal action brought by the Attorney General of this State seeking a recovery of the payment or benefit made."

D. Section 58-31-55 of the 1976 Code is amended to read:

"Section 58-31-55. (A) Every director shall owe a fiduciary duty of care to the State of South Carolina during his service as a director.

(B) A director shall discharge his duties as a director, including his duties as a member of a committee:

(1) in good faith;

(2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner he reasonably believes to be in the best interests of the Public Service Authority. As used in this chapter, 'best interests' means a balancing of the following:

(a) preservation of the financial integrity of the Public Service Authority and its ongoing operation of generating, transmitting, and distributing electricity to wholesale and retail customers on a reliable, adequate, efficient, and safe basis, at just and reasonable rates, regardless of the class of customer;

(b) economic development and job attraction and retention within the Public Service Authority's present service area or areas within the State authorized to be served by an electric cooperative or municipally owned electric utility that is a direct or indirect wholesale customer of the authority; and

(c) subject to the limitations of Section 58-31-30(B) and item (3)(a) of this section, exercise of the powers of the authority set forth in Section 58-31-30 in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

~~(B)~~(C). In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) one or more officers or employees of the Public Service Authority whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
- (3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

~~(C)~~(D). A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

~~(D)~~(E). A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section, except for a violation of the fiduciary duty contained in subsection (A).

~~(E)~~(F). An action against a director for failure to perform the duties imposed by this section must be commenced within three years after the cause of action has occurred, or within two years after the time when the cause of action is discovered or should reasonably have been discovered, whichever occurs sooner. This limitations period does not apply to breaches of duty which have been concealed fraudulently."

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

"Section 58-31-230. (A) The Public Service Authority of South Carolina shall explore joint cost-saving opportunities through joint agreements with one or more third-party electrical utilities for the purpose of advancing system economy and reliability and generating cost savings to its customers. In order to advance system economy and reliability and generate cost savings, the Public Service Authority of South Carolina, subject to approval of the Public Service Commission, shall have all the powers which may be necessary or convenient for the exercise of such action, and shall discharge its duties by evaluating the potential joint management or operation of various services with a privately owned electrical utility, such as the following:

- (1) nonnuclear electric generation matters by providing for:
  - (a) the provision of generation outage, security, engineering, training, benchmarking, environmental emissions data capture, environmental regulation compliance, and decommissioning support services; and
  - (b) the provision of planning, engineering, and construction operations services to support generating station development projects;
- (2) fuel procurement and environmental commodities by providing for services related to the procurement and transportation of all fuels and emissions reduction products and physical and financial hedging of such fuels and emissions reduction products;
- (3) electric transmission matters by providing for:
  - (a) the preparation and coordination of planning studies, consulting, designing, inspecting, and engineering, construction and maintenance support services of electric transmission and substation plant facilities;
  - (b) support services related to relay settings and coordination, relay misoperation analysis, relay repair and maintenance, substation and transmission line equipment specifications, electrical equipment repair and maintenance, and general outage coordination support; and

(c) vegetation management so as to improve the reliability of electric transmission systems by preventing outages from vegetation located on transmission rights-of-way and minimizing outages from vegetation located adjacent to rights-of-way, and maintaining clearance between transmission lines and vegetation on and along transmission rights-of-way;

(4) electric distribution matters by providing for metering, vegetation management, safety, training, weather forecasting, design, engineering, planning studies, substation and distribution control equipment installation, field support and operation support services; the planning, formulation, and implementation of load retention, load shaping and conservation and efficiency programs, and integrated resource planning for supply-side plans and demand-side management programs;

(5) emergency services by providing aid in the emergency restoration of electric service such as:

(a) distribution line restoration;

(b) transmission line restoration;

(c) generation facility restoration;

(d) vegetation management;

(e) damage assessment;

(f) substation restoration;

(g) relay (system protection) restoration; and

(h) other critical maintenance and emergency restoration support services to assist in the safe and timely restoration of electric service;

(6) supply-chain matters by providing for the procurement of real and personal property, materials, supplies and services, conduct purchase negotiations, prepare procurement agreements, and administer programs of material control;

(7) customer services by providing services and systems dedicated to customer service, billing, remittance, credit, collections, customer relations, call centers, energy conservation support, and metering; and

(8) general corporate services such as accounting, corporate planning, information technology, business services, and risk management.

(B) The Public Service Authority shall give first preference to a privately owned electrical utility providing retail electric service in South Carolina to pursue benefits for customers in South Carolina. Prior to approving a joint operating agreement with an out-of-state utility, the Public Service Authority shall establish compliance with this section and demonstrate to the satisfaction of the commission that it is in the public interest to approve the agreement with an out-of-state electrical utility rather than an electrical utility in South Carolina.

(C) In furtherance of this section, the Public Service Authority of South Carolina is authorized to provide the privately owned electrical utility with access to, and the ability to utilize, appropriate offices, facilities and other equipment, and access to books, records, information, and employees of the Public Service Authority of South Carolina.

(D) The Public Service Authority shall establish regular opportunities for comment and input from interested parties during the process of exploring or establishing any joint cost-saving opportunities through joint agreements with a electrical utility.

(E) Any joint management or operating agreements entered into pursuant to this section must be approved by the commission with a finding that the agreement is in the public interest. No contract pursuant to this section shall be exempt from alteration, control, regulation, and establishment by the commission, when in its judgment the public interest so requires, to the full extent of the powers in relation to charges conferred upon the commission by this title. Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing. The Public Service Authority shall report its progress on the foregoing to the General Assembly.

(F) The Public Service Authority shall prepare and submit a report annually to the Governor of the State of South Carolina, the President of the Senate of the State of South Carolina, the Speaker of the House of Representatives of the State of South Carolina, the Office of Regulatory Staff, and the Public Service Commission of South Carolina regarding the implementation of this section.

(G) Nothing in this section shall be construed to amend or alter in any way the existing wholesale power supply contract between the Public Service Authority and Central Electric Power Cooperative."

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

"Section 58-31-295. (A) For purposes of this section, 'Reform plan' means the loads and resources portion of the Public Service Authority's reform plan submitted to the General Assembly pursuant to Act 95 of 2019, including any updates to reflect current plans and practices, related only to the Public Service Authority's plans for meeting its future capacity and energy needs and does not include other portions of the reform plan, including governance or any other item not related directly to meeting its future capacity and energy needs.

(1) Within thirty days of the effective date of this act, the Public Service Authority, in consultation with the Office of Regulatory Staff and Central Electric Power Cooperative, shall develop a public process that allows input from customers and other stakeholders, to review, and update as necessary, the Public Service Authority's reform plan and prepare an integrated resource plan incorporating the revised reform plan.

(2) Within one hundred eighty days of the effective date of this section, the Public Service Authority shall submit the integrated resource plan incorporating the revised reform plan to the commission along with all other documentation required pursuant to Section 58-37-40. The integrated resource plan incorporating the revised reform plan shall include an assessment of various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net-present value basis, identify the most cost-effective and least ratepayer-risk resource portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service.

(3) Upon receipt of the Public Service Authority's integrated resource plan incorporating the revised reform plan, the commission shall open a docket and establish a proceeding to review the integrated resource plan incorporating the revised reform plan pursuant to Section 58-37-40.

(B)(1) The commission shall review and evaluate the integrated resource plan incorporating the revised reform plan along with long-term power supply alternatives and various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net present value basis, identify the most cost-effective and lowest ratepayer-risk resource portfolio to meet the Public Service Authority's total capacity and total energy requirements while maintaining safe and reliable electric service.

(2) The commission's evaluation shall include, but not be limited to:

(a) evaluating the cost-effectiveness and ratepayer risk of self-build generation and its associated interconnected transmission options compared with various long-term power supply alternatives including power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, or any combination thereof. In evaluating the cost-effectiveness of long-term power supply



alternatives, the commission shall strive to reduce the risk to ratepayers associated with self-build generation or transmission options while maintaining safe and reliable electric service.

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

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

(C) As part of the filing, the commission shall allow intervention by interested parties. The commission shall establish a procedural schedule to permit reasonable discovery in order to assist parties in obtaining evidence concerning the integrated resource plan incorporating the revised reform plan, including the reasonableness and prudence of the plans and alternatives to the plans raised by intervening parties. No later than three hundred days after the Public Service Authority files the integrated resource plan incorporating the revised reform plan, the commission shall issue a final order approving, modifying, or denying the integrated resource plan incorporating the revised reform plan.

(D) During the pendency of the regulatory proceeding, the Public Service Authority may not begin the construction, purchase, or lease of any facility for the generation or transmission of electricity over one hundred megawatts to be directly or indirectly used for the furnishing of electric service and may not enter into any long-term power purchase agreements without prior commission approval. During the pendency of the regulatory proceeding, nothing in this section prohibits the Authority from:

(1) doing those things necessary for closing and decommissioning the Winyah Generating Station including, but not limited to, planning, permitting, and securing by purchase or lease one hundred megawatts of combustion turbines and minor transmission upgrades, subject to the consent of Central pursuant to the Power System Coordination and Integration Agreement between Santee Cooper and Central, as amended (the Coordination Agreement). In no event will this include constructing a natural gas combined cycle or other major generation resource;

(2) doing all those things necessary for deploying up to 500 megawatts of new solar generation in accordance with Act 135 of 2020, subject to consent of Central pursuant to the Coordination Agreement.

(E) Following the conclusion of the initial proceeding to evaluate the Public Service Authority's integrated resource plan incorporating the revised reform plan, for future resource planning, the Public Service Authority shall comply with Section 58-37-40. To the extent practicable, the commission shall align the Public Service Authority's future integrated resource plan filings on a schedule that aligns the Public Service Authority's integrated resource plan filing dates with those required for other electrical utilities in the State.

(F) Nothing in this section shall be construed to give the Commission the authority to amend or alter in any way the existing wholesale power supply contract between the Public Service Authority and Central Electric Power Cooperative.

Section 58-31-296. (A)(1) The commission, in consultation with the Office of Regulatory Staff and the Public Service Authority, shall develop, publicize, and keep current an analysis of the Public Service Authority's:

- (a) long-range capacity and energy needs;
- (b) long-range needs for expansion of facilities for the generation of electricity;
- (c) estimates of the probable future growth of the use of electricity;

(d) extent, size, mix, and general location of generating plants and arrangements for pooling power to the extent not regulated by the Federal Energy Regulatory Commission and other arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the customers of the Public Service Authority.

(2) This analysis must include an estimate of:

- (a) the probable future growth of the use of electricity;
- (b) the probable need of generating reserves;
- (c) in the judgment of the commission, the optimal extent, size, mix, and general location of generating plants;
- (d) in the judgment of the commission, the optimal arrangements for statewide or regional pooling of power and arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of South Carolina; and
- (e) the comparative costs, on a net present-value basis, of meeting future growth by other means of providing reliable, efficient, and economic electric service, including purchase of power, competitive market power purchases, joint ownership of facilities, refurbishment of existing facilities, conservation (including energy efficiency), load management, distributed generation, and cogeneration.

(3) The commission shall consider such analysis in acting upon any petition by the Public Service Authority to approve construction or acquisition of a major utility facility or other long-term means of procuring energy with a duration over five years.

(B) Any intervenor may attend or be represented at any proceeding conducted by the commission in developing an analysis for and determining the future requirements of electricity for the Public Service Authority.

(C) In the course of making the analysis required by this section, the commission shall conduct one or more public hearings.

(D) Each year, the commission shall submit to the Governor and to the appropriate committees of the General Assembly a report of its analysis and plan, the progress to date in carrying out such plan, and the program of the commission for the ensuing year in connection with such plan."

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

#### "Article 7

#### PSA Retail Rates Process

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

(A) The authority shall provide notice to all customers when any customers will be affected by a rate increase at least one hundred and eighty days before the board of directors' vote on a proposed rate increase.

(1) The notice required by this subsection must be given in the following forms:

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

- (b) by advertisements to be published in newspapers of general circulation within the service territory of the authority;
  - (c) by way of Santee Cooper's regularly maintained website, including a conspicuous portal or link accessible from the website's landing page; and
  - (d) by issuance of a news release to local news outlets.
- (2) The notice of proposed rate increases required by this subsection shall contain the following information:
- (a) the date, time, and location of all public meetings;
  - (b) the date, time, and location of the meeting at which a proposed rate increase is expected to be submitted to the board of directors for its consideration;
  - (c) the date, time, and location of the meeting at which the board of directors is expected to vote on the proposed rate increase;
  - (d) a notification to customers of their right to:
    - (i) review the proposed rate schedules;
    - (ii) appear and speak in person concerning the proposed rates at public meetings or the specified meetings of the board of directors; and
    - (iii) submit written comments;
  - (e) the means by which customers can submit written comments, including the email and physical addresses to which written comments may be submitted, and the deadline for submitting such comments; and
  - (f) the means by which customers can access and review a written report containing the proposal of proposed rate adjustments, any rate study, or other documentation developed by the authority in support of the rate increase, when these materials become available.
- (3) Contemporaneously with notice to customers, the authority shall provide notice of proposed rate increases to the Office of Regulatory Staff and the Department of Consumer Affairs.
- (4) A rate adjustment that does not result in a proposed rate increase does not require notice pursuant to this subsection.
- (5) Customers whose rates will not increase are not entitled to notice pursuant to this subsection.
- (B) In addition to the requirements of notice set forth above, the authority shall provide for the following:
- (1) a comprehensive review of the authority's rate structure and rates, consistent with the provisions of Chapter 31, Title 58 and the Public Service Authority's bond covenants concerning the Public Service Authority's revenue requirements provided that:
    - (a) management may engage consultants as necessary to assist the authority in completing this review; and
    - (b) this review should include such subjects as the authority's revenue requirements, a cost of service analysis that includes allocation of costs between wholesale and retail customers, and rate/tariff design;
  - (2) a written report of management's recommendations concerning proposed rate adjustments;

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

(a) beginning no later than the date that notice of the proposed rate increase is issued by the authority in accordance with this section, the authority also shall provide customers who will be affected by a rate increase access to the proposed rate schedules and written findings and analysis of employees and consultants retained by the authority that support the proposed rate increases, such materials to be made available at a physical location, at public meetings, and via Santee Cooper's website, and provide a reasonable opportunity for affected customers to request additional information and submit written questions; and

(b) customers who will be affected by a rate increase shall have at least one hundred and twenty days from the date of the notice of the proposed rate increase to prepare and submit written comments to be considered by the board of directors before any vote concerning a proposed rate increase;

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

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

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

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

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

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

(5) an inspection, audit, and examination by the Office of Regulatory Staff or intervening parties of the proposed rate schedule, revenue requirements, cost of service analysis, and rate/tariff design;

(6)(a) a public hearing held by the board of directors, at a reasonable time after the submission date for written comments and separate from and at least thirty days prior to the board of directors' scheduled vote on proposed rate increases, allowing for any interested party including the Office of Regulatory Staff and the Department of Consumer Affairs to present testimony and recommendations provided that:

(i) a quorum of directors shall be present for the hearing;

(ii) a transcript of the hearing shall be prepared and maintained along with a record of all evidence entered; and

(iii) the board of directors shall issue a written order setting forth its decision based on the evidence in the record.

(b) at the hearing the board of directors shall receive management's recommendation concerning proposed rate increases, results of the inspection, audit and examination of the Office of Regulatory Staff, the proposed rate

schedules, documentation supporting the same, written comments, and transcripts of the public meetings provided that:

- (i) at this hearing customers who will be affected by a rate increase shall be entitled to appear and speak in person for a reasonable amount of time to offer their comments directly to the board of directors;
  - (ii) customer comments received by the authority prior to this hearing and transcripts of the public meetings shall be submitted to the board of directors for their consideration in the determination of rates; and
- (7) a meeting at which the board of directors votes on the proposed rate increase, following notice as set forth in subsection (A) and completion of the process implemented by the board of directors pursuant to subsection (B).
- (C) Rates shall become effective no earlier than ninety days after the board votes on the proposed rate increases.
- (D) The board of directors' action pursuant to this section and its approval of rates are subject to the same standards and remedies pursuant to Sections 58-31-55, 58-31-56, and 58-31-57, provided that nothing contained in section may be construed to limit or derogate from:
- (1) the board of directors' duties and powers as established in this chapter; and
  - (2) the state's covenants as provided in Sections 58-31-30 and 58-31-360, and those covenants are hereby reaffirmed.
- (E) The board of directors shall utilize counsel independent from the management team of the Public Service Authority and is authorized to hire independent outside experts and consultants as necessary to fulfill the board's obligations and duties pursuant to this section.
- (F) Notwithstanding the provisions of this section the authority may place such increased rates and charges into effect on an interim basis under emergency circumstances such as the avoidance of default of its obligations and to ensure proper maintenance of its system. Said increased rates and charges shall be subject to prospective rate adjustment in accordance with the terms of this section. Provided further, that the authority may implement experimental rates on an interim basis for the purpose of developing improved rate offerings for customers. These experimental rates will be enacted for no longer than five years and will apply to no more than five percent of the affected customer class.
- (G) Appeals of decisions by the board of directors to approve an increase in rates shall be a direct appeal to the South Carolina Supreme Court, and such appeal only shall be as to the Public Service Authority's adherence to the rates process set forth above. The Supreme Court shall not have the authority to set the Public Service Authority's rates or compel it to set specified rates, and such authority shall remain exclusively with the Public Service Authority's board of directors.

Section 58-31-720. The board of directors shall establish a set of pricing principles and take such principles into consideration when establishing new rates. The Authority shall maintain and continue to offer, subject to potential improvements that will benefit affected customers, all the firm and nonfirm residential, commercial, and industrial rate schedules and rider options and rate designs, such as firm, time-of-use, interruptible and economy power, offered by the Authority as of the date of this article.

Section 58-31-730. The Public Service Authority shall submit to the Office of Regulatory Staff a pricing report each year, and its report must include an analysis of the adherence to the pricing principles required in Section 58-31-720, the current and projected wholesale and retail electric customer pricing and a comparison of pricing to inflation, and to other utilities, and an analysis of the rates by customer classes and the fair allocation of costs among customer classes. A copy of this annual report must be provided to the Consumer Advocate. If the Public Service Authority's price of electricity is projected to rise above the rate of inflation, then it must include in its

annual pricing report a detailed explanation of all cost saving efforts being undertaken and planned to mitigate costs. After its review, the Office of Regulatory Staff shall issue comments on the Public Service Authority's annual pricing report."

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

"Article 9

Revenue Obligations

Section 58-31-1010. (A) The Public Service Authority must apply to the commission for approval of the authority's proposed issuance of long-term revenue obligation securities representing new debt, but not to include the refunding of such debt, lease, or other evidences of indebtedness including, but not limited to, short-term borrowing of the authority, by filing with the commission and providing a copy of an application to the Office of Regulatory Staff, together with a statement verified by its president and chief financial officer setting forth:

- (1) the authority's system-wide goals and objectives for capital spending over the next three years;
- (2) the amount and character of new revenue obligation securities proposed to be issued in support of its system-wide goals and objectives;
- (3) the purpose for which they are to be issued;
- (4) the authority's financial condition, to include all current credit ratings and debt outstanding; and
- (5) the status of any ongoing projects for which securities are proposed to be issued.

(B) The Office of Regulatory Staff must thereupon make an investigation as may be necessary, at which investigation the authority is entitled to be heard before the commission. Within ninety days of receiving an application the commission must issue a determination of the following:

- (1) whether the purpose of the issued revenue obligation securities is prudent; and
- (2) whether the issuance of new debt securities is supported:
  - (a) the project plans, in the case of a new project; or
  - (b) the current status of the project, in the case of an ongoing project; or
  - (c) the value of the equipment to be purchased, in the case of equipment. To the extent that the commission approves the issuance of such new revenue obligation securities, it must grant to the authority a certificate of authority stating:
    - (i) the amount of revenue obligation securities the authority is authorized to issue; and
    - (ii) the projects to be funded and the equipment to be acquired therewith.

(C) Nothing herein contained shall be construed to impose or imply any guaranty or obligation as to the securities on the part of the State or any agency thereof, nor shall the commission, by virtue of the approval of the issuance of such securities, be deemed to be required to prescribe or approve any rate for the reason that such rate may be necessary to provide funds reasonably sufficient to retire such securities or the interest thereon.

(D) All revenue obligation securities approved by the commission for issuance need not be issued by the authority immediately, and the securities may be issued by the authority across multiple series and over the term

of the authority's three-year capital spending plan. Notwithstanding the foregoing, the authority shall not issue revenue obligation securities above the approved amount before receiving approval from the commission."

I. Sections 58-27-160, 58-27-190, 58-27-200, 58-27-210, and 58-27-220 of the 1976 Code are amended to read:

"Section 58-27-160. The Office of Regulatory Staff may investigate and examine the condition and management of electrical utilities, the South Carolina Public Service Authority, or any particular electrical utility.

Section 58-27-190. The Office of Regulatory Staff has the right at any and all times to inspect the property, plant, and facilities of any electrical utility and the South Carolina Public Service Authority, and to inspect or audit at reasonable times the accounts, books, papers, and documents of any electrical utility and the South Carolina Public Service Authority. For the purposes herein mentioned an employee or agent of the Office of Regulatory Staff may during all reasonable hours enter upon any premises occupied by or under the control of any electrical utility and the South Carolina Public Service Authority. An employee or agent of the Office of Regulatory Staff authorized to administer oaths has the power to examine under oath any officer, agent, or employee of the electrical utility and the South Carolina Public Service Authority in relation to the business and affairs of the electrical utility, but written record of the testimony or statement so given under oath must be made.

Section 58-27-200. In the performance of its duties under this chapter, an employee or agent of the Office of Regulatory Staff may inspect or make copies of all income, property, or other tax returns, reports, or other information filed by electrical utilities and the South Carolina Public Service Authority with or otherwise obtained by any other department, commission, board, or agency of the state government. All departments, commissions, boards, or agencies of the state government must permit an employee or agent of the Office of Regulatory Staff to inspect or make copies of all information filed by electrical utilities with or otherwise obtained by the department, commission, board, or agency of the state government.

Section 58-27-210. Whenever it shall appear that any electrical utility, electric cooperative, the South Carolina Public Service Authority, or consolidated political subdivision is failing or omitting, or about to fail or omit, to do anything required of it by law or by order of the commission or is doing, or about to do anything or permitting or about to permit anything to be done contrary to or in violation of law or of any order of the commission, an action or proceeding shall be prosecuted in any court of competent jurisdiction in the name of the Office of Regulatory Staff for the purpose of having such violation or threatened violation discontinued or prevented, either by mandamus, injunction, or other appropriate relief, and in such action or proceeding, it shall be permissible to join such other persons, corporations, municipalities, or consolidated political subdivisions as parties thereto as may be reasonably necessary to make the order of the court in all respects effective. The commission must not be a party to any action.

Section 58-27-220. In addition to the foregoing expressly enumerated powers, the Office of Regulatory Staff must enforce, execute, administer, and carry out the provisions of this chapter relating to the powers, duties, limitations, and restrictions imposed upon electrical utilities and the South Carolina Public Service Authority by this chapter or any other provisions of the law of this State regulating electrical utilities and the South Carolina Public Service Authority."

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

"Section 58-31-25. After the effective date of this section, major utility facilities, as defined in Section 58-33-20(2), of the Public Service Authority as proposed by the authority must be submitted to the Public Service Commission for approval and determined in the manner provided by Articles 1, 3, 5, and 7 of Chapter 33, Title 58. In addition to complying with the requirements of Articles 1, 3, 5, and 7 of Chapter 33, Title 58, the decision of the commission to approve a request by the authority to construct a major utility facility also must comply with Sections 58-31-295, 58-31-296, and 58-37-40."

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

"Section 58-33-20. (1) The term 'commission' means Public Service Commission.

(2) The term 'major utility facility' means:

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

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

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

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

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

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

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

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

(9) The term 'regulatory staff' means the executive director or the executive director and the employees of the Office of Regulatory Staff."

L. Article 1, Chapter 33, Title 58 of the 1976 Code is amended by adding:

"Section 58-33-180. (A)(1) In addition to the requirements of Articles 1, 3, 5, and 7 of Chapter 33, Title 58, a certificate for the construction of a major utility facility shall be granted only if the Public Service Authority demonstrates and proves by a preponderance of the evidence and the commission finds:

(a) the construction of a major utility facility constitutes a more cost effective means for serving direct serve and wholesale customers than other available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other available long-term power supply alternatives; and

(b) energy efficiency measures; demand-side management; renewable energy resource generation; available long-term power supply alternatives, or any combination thereof, would not establish or maintain a more cost-effective and reliable generation system and that the construction and operation of the facility is in the public interest.

(2) Available long-term power supply alternatives may include, but not limited to, power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing



regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof.

(3) The commission shall consider any previous analysis performed pursuant to Section 58-31-295, Section 58-31-296, or Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's resource and fuel diversity, reasonably anticipated future operating costs, arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service.

(B) The Public Service Authority shall file an estimate of construction costs in such detail as the commission may require. No certificate shall be granted unless the commission has approved the estimated construction costs and made a finding that construction will be consistent with the authority's commission approved plan for expansion of electric generating capacity.

Section 58-33-185. (A) For purposes of this section:

(1) The term 'major utility facility' means:

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

(b) an electric transmission line and associated facilities of a designed operating voltage of one hundred twenty-five kilovolts or more; provided, however, that the words 'major utility facility' shall not include electric distribution lines and associated facilities.

(B) The Public Service Authority may not enter into a contract for the acquisition of a major utility facility or contract for the purchase of power with a duration longer than five years without approval of the Public Service Commission of South Carolina, provided that the approval is required only to the extent the transaction is not subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission or any other federal agency.

(C)(1) In acting upon any petition by the Public Service Authority for approval of an acquisition of a major utility facility, as defined by subsection(A)(1)(a), or purchases of power with a duration longer than five years, the Public Service Authority must prove by a preponderance of the evidence that the acquisition of the generating resources or purchases of power constitutes a more cost effective means for serving direct serve and wholesale customers than other available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other available long term-power supply alternatives. The commission shall consider any previous analysis performed pursuant to Section 58-31-295, Section 58-31-296, Section 58-33-180, or Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service

(2) Available long-term power supply alternatives may include, but not limited to, power purchase agreements of a different duration than proposed, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof.

(D) Application for the approval of the commission shall be made by the Public Service Authority and shall contain a concise statement of the proposed action, the reasons therefor, and such other information as may be required by the commission.

(E) Upon the receipt of an application, the commission shall promptly fix a date for the commencement of a public hearing, not less than sixty nor more than ninety days after the receipt, and shall conclude the proceedings

as expeditiously as practicable. The commission shall establish notice requirements and proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(F) The commission shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions or modifications as the commission may deem appropriate.

(G) The commission may not grant approval unless it shall find and determine that the Public Service Authority satisfied all requirements of this section and the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority."

M. Section 58-37-40 of the 1976 Code, as last amended by Act 62 of 2019, is further amended to read:

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

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

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

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

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

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

(4)(a) In addition to the requirements of 58-37-40(B), the Public Service Authority's integrated resource plan shall include an analysis of long term power supply alternatives and enumerate the cost of various resource portfolios over various study periods including a twenty year study period and, by comparison on a net present value basis, identify the most cost effective and least ratepayer risk resource portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service.

(b) In addition to the requirements of Section 58-37-40(B), the commission shall review and evaluate the Public Service Authority's analysis of long-term power supply alternatives and various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net present value basis, identify the most cost-effective and lowest ratepayer-risk resource portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service. The commission's evaluation shall include, but not be limited to:

(i) evaluating the cost-effectiveness and ratepayer risk of self-build generation and transmission options compared with various long-term power supply alternatives including power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof. In evaluating and identifying the most cost effective and least ratepayer risk resource portfolio, the commission shall strive to reduce the risk to ratepayers associated with any generation and transmission options while maintaining safe and reliable electric service; and

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

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

- (a) a long-term forecast of the utility's sales and peak demand under various reasonable scenarios;
- (b) the type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including fuel cost sensitivities under various reasonable scenarios;
- (c) projected energy purchased or produced by the utility from a renewable energy resource;
- (d) a summary of the electrical transmission investments planned by the utility;
- (e) several resource portfolios developed with the purpose of fairly evaluating the range of demand-side, supply-side, storage, and other technologies and services available to meet the utility's service obligations. Such portfolios and evaluations must include an evaluation of low, medium, and high cases for the adoption of renewable energy and cogeneration, energy efficiency, and demand response measures, including consideration of the following:
  - (i) customer energy efficiency and demand response programs;
  - (ii) facility retirement assumptions; and
  - (iii) sensitivity analyses related to fuel costs, environmental regulations, and other uncertainties or risks;
- (f) data regarding the utility's current generation portfolio, including the age, licensing status, and remaining estimated life of operation for each facility in the portfolio;
- (g) plans for meeting current and future capacity needs with the cost estimates for all proposed resource portfolios in the plan;
- (h) an analysis of the cost and reliability impacts of all reasonable options available to meet projected energy and capacity needs; and
- (i) a forecast of the utility's peak demand, details regarding the amount of peak demand reduction the utility expects to achieve, and the actions the utility proposes to take in order to achieve that peak demand reduction.

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

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

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

- (a) resource adequacy and capacity to serve anticipated peak electrical load, and applicable planning reserve margins;
- (b) consumer affordability and least cost;
- (c) compliance with applicable state and federal environmental regulations;
- (d) power supply reliability;
- (e) commodity price risks;
- (f) diversity of generation supply; and
- (g) other foreseeable conditions that the commission determines to be for the public interest.

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

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

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

Authority's annual update must describe the impact of the updated base planning assumptions on the selected resource plan.

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

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

N. (1) The Public Service Authority shall file for Commission approval a program for the competitive procurement of energy and capacity from renewable energy facilities with the purpose of adding renewable energy to the utility's generation portfolio in a manner that allows the utility to continue to reliably and cost-effectively serve customers' future energy needs.

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

(3) The Commission shall adopt procedures to implement the requirements of this section including commission oversight of the competitive procurement program.

(4) The Public Service Authority shall submit to the Commission for approval and make publicly available at 30 days prior to each competitive procurement solicitation a pro forma contract to be utilized for the purpose of informing market participants of terms and conditions of the competitive procurement. Each pro forma contract shall define limits and compensation for resource dispatch and curtailments. The pro forma contract shall be for a term of twenty years; provided, however, the Commission may approve a contract term of a different duration if the Commission determines that it is in the public interest to do so.

O. The Public Service Commission and the Office of Regulatory Staff are authorized to employ, through contract or otherwise, third-party consultants and experts in carrying out their duties under this Act. The commission and Office of Regulatory Staff are exempt from complying with the State Procurement Code in the selection and hiring of third-party consultants or experts authorized by this section. The commission and the Office of Regulatory Staff may not hire the same third-party consultant or expert in the same proceeding or to address the same or similar issues in different proceedings.

P. All lawful expenses and charges incurred by the Public Service Commission and the Office of Regulatory Staff in the administration of this act and in performance of its duties thereunder shall be defrayed by assessments made by the Comptroller General against the Public Service Authority in the year ending on the thirtieth day of June preceding that on which the assessment is made. The Public Service Commission and the Office of Regulatory Staff shall certify to the Comptroller General annually on or before August first the amounts to be assessed in the format approved by the Comptroller General.

Q. Section 1-3-240(C) of the 1976 Code is amended to read:

"(C)(1) Persons appointed to the following offices of the State may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity:

(a) Workers' Compensation Commission;

- (b) [Repealed]
  - (c) Ethics Commission;
  - (d) Election Commission;
  - (e) Professional and Occupational Licensing Boards;
  - (f) Juvenile Parole Board;
  - (g) Probation, Parole and Pardon Board;
  - (h) Director of the Department of Public Safety;
  - (i) Board of the Department of Health and Environmental Control, excepting the chairman;
  - (j) Chief of State Law Enforcement Division;
  - (k) South Carolina Lottery Commission;
  - (l) Executive Director of the Office of Regulatory Staff;
  - (m) Directors of the South Carolina Public Service Authority appointed pursuant to Section 58-31-20. A director of the South Carolina Public Service Authority also may be removed for poor performance or his breach of any duty arising under Section 58-31-55 or 58-31-56. The Governor must not request a director of the South Carolina Public Service Authority to resign unless cause for removal, as established by this subsection, exists. Removal of a director of the South Carolina Public Service Authority, except as is provided by this section or by Section 58-31-20(A), must be considered to be an irreparable injury for which no adequate remedy at law exists;
  - (n) State Ports Authority;
  - (o) State Inspector General;
  - (p) State Adjutant General;
  - (q) South Carolina Retirement Investment Commission members appointed by the Governor or members of the General Assembly; and
  - (r) South Carolina Public Benefit Authority members.
- (2) Upon the expiration of an officeholder's term, the individual may continue to serve until a successor is appointed and qualifies."
- R. Nothing in this act prohibits the South Carolina Public Service Authority from altering or amending the terms and conditions of the Authority's lighting rate schedule or outdoor rental lighting agreement.

#### Part IV

SECTION 5. This act takes effect upon approval by the Governor.

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