**A** **BILL**

TO AMEND SECTION 58‑31‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO ARTICLE 3, CHAPTER 31, TITLE 58, SO AS TO PROVIDE ADDITIONAL DEFINITIONS; BY ADDING SECTION 58‑31‑465 SO AS TO EXEMPT ELECTROLYTIC PROCESSORS FROM THE EXCLUSIVE SERVICE RIGHT OF THE PUBLIC SERVICE AUTHORITY, TO PROVIDE THAT AN ELECTROLYTIC PROCESSOR MUST BE ENTITLED TO PURCHASE ELECTRIC ENERGY FROM AN INDUSTRIAL UTILITY, AND TO PROVIDE THAT UPON REQUEST BY AN ELECTROLYTIC PROCESSOR OR INDUSTRIAL UTILITY, THE PUBLIC SERVICE AUTHORITY SHALL OFFER AND PROVIDE TRANSMISSION SERVICES AND ANCILLARY SERVICES FOR DELIVERY OF ELECTRIC ENERGY AND CAPACITY; AND BY ADDING SECTION 58‑31‑470 SO AS TO PROVIDE THAT AN INDUSTRIAL UTILITY MAY NOT BE AN “ELECTRICAL UTILITY” OR AN “ELECTRIC SUPPLIER” WITHIN THE MEANING OF SECTIONS 58‑27‑10 AND 58‑27‑610 AND TO PROVIDE THAT AN INDUSTRIAL UTILITY IS NOT SUBJECT TO THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION.

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

SECTION 1. Section 58‑31‑310 of the 1976 Code is amended by adding appropriately numbered items to read:

“( ) The term ‘retail electric consumer’ means a customer or entity that purchases electric power for consumption.

( ) The term ‘wholesale electric customer’ means a customer or entity that purchases electric power for resale to another customer or entity.

( ) The term ‘electrolytic processor’ means a retail electric consumer that:

(a) consumes, will consume, reasonably expects to consume, or has historically consumed at least 1.5 million megawatt hours of energy per year;

(b) consumes, will consume, reasonably expects to consume, or has historically consumed electricity primarily as a raw material in an electrolytic reduction process and not primarily for the purpose of mechanical wheel‑turning or heating; and

(c) is located within the service area or areas of the Public Service Authority.

( ) The term ‘industrial utility’ means a person, corporation, or other entity, whether located within the State of South Carolina or otherwise, that is affiliated with an electrolytic processor and that sells, offers to sell, or has a contract to sell electricity only to wholesale electric customers and to electrolytic processors.

( ) The term ‘electrolytic reduction process’ means the use of direct electric current to produce a chemical reaction.

( ) The term ‘ancillary services’ means the services necessary or incidental to the transmission and delivery of electric capacity and energy including, but not limited to, scheduling and system control and dispatch service; reactive supply and voltage control; regulation and frequency response, energy imbalance service; operating and spinning reserves service; and supplemental reserve service.

( ) The term ‘Open Access Transmission Tariff’ means the Public Service Authority’s tariff on file with the Federal Energy Regulatory Commission.”

SECTION 2. Article 3, Chapter 31, Title 58 of the 1976 Code is amended by adding:

“Section 58‑31‑465. Notwithstanding another provision of law:

(A) an electrolytic processor is not subject to the exclusive service right of the Public Service Authority and, for the term and in the amount that the electrolytic processor is purchasing electric energy and capacity from an industrial utility, then, except for ancillary services, the Public Service Authority has no obligation to sell electric energy and capacity in the same amounts and for the same term to the electrolytic processor;

(B) an electrolytic processor is entitled to purchase electric energy and capacity from any industrial utility;

(C) upon request by an electrolytic processor or industrial utility, the Public Service Authority shall offer and provide transmission services and ancillary services for delivery of electric energy and capacity to an electrolytic processor pursuant to the terms, conditions, and rates in the Public Service Authority’s Open Access Transmission Tariff, plus a market access fee as provided below, as if the electrolytic processor was a wholesale customer; and

(D) the market access fee, if applicable, must be a $/kw‑month charge added to the otherwise applicable transmission charge, determined as:

(a) the monthly payment by the electrolytic processor to the Public Service Authority’s fixed costs, payments under $/kw‑month charge, under the immediately prior service agreement less;

(b) the monthly payment by the electrolytic processor, or by the industrial utility for the electrolytic processor, to the Public Service Authority’s fixed costs, payments under $/kw‑month charge, including the payments for transmission and ancillary services for the purchases from the industrial utility pursuant to the new service agreement.

Section 58‑31‑470. Notwithstanding another provision of law:

(A) an industrial utility may not be an ‘electrical utility’ within the meaning of Section 58‑27‑10(7) or an ‘electric supplier’ within the meaning of Section 58‑27‑610(1); and

(B) an industrial utility, including its rates, terms, and conditions of service is not subject to the jurisdiction of the Public Service Commission.”

SECTION 3. This act takes effect upon approval by the Governor.

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