

NO. 55

**JOURNAL**  
**of the**  
**HOUSE OF REPRESENTATIVES**  
**of the**  
**STATE OF SOUTH CAROLINA**



**REGULAR SESSION BEGINNING TUESDAY, JANUARY 10, 2023**

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**WEDNESDAY, MAY 1, 2024**  
**(STATEWIDE SESSION)**

**Wednesday, May 1, 2024**  
**(Statewide Session)**

~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Acts 7:49: “Heaven is my throne, and the earth is my footstool. What kind of house will you build for me, says the Lord, or what is the place of my rest.”

Let us pray. Loving God, help us to know that we are not abandoned in our time of need, but blessed with overflowing love through the power of our Good Shepard. He has the power and He uses that power to care for us and to give us abundant life overflowing with goodness. Bestow Your power and love on these Representatives and Staff that they will accomplish good things for this State. Cause Your power, O Lord, to be with our defenders of freedom and first responders. May Your face shine on our World, Nation, President, State, Governor, Speaker, Staff, and all who give of their time and effort for the good of this State. Look in favor and bless our men and women who suffer from hidden wounds.

Lord, in Your mercy, hear our prayers. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER *PRO TEMPORE*.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER *PRO TEMPORE* ordered it confirmed.

**MOTION ADOPTED**

Rep. MCGINNIS moved that when the House adjourns, it adjourn in memory of his mother, Mary Lou McGinnis, which was agreed to.

**SILENT PRAYER**

The House stood in silent prayer for the family and friends of Harold Barron.

**SILENT PRAYER**

The House stood in silent prayer family and friends of Corine Riley.

**WEDNESDAY, MAY 1, 2024**

**REGULATIONS WITHDRAWN**

Document No. 5224

Agency: State Election Commission

Statutory Authority: 1976 Code Sections 7-3-10 and 7-3-20

R.45-8, Defective and Duplicate Ballot Cards, Sealed After Tabulation

Received by Speaker of the House of Representatives January 9, 2024

Referred to Regulations and Administrative Procedures Committee

Legislative Review Expiration: Permanently Withdrawn

**HOUSE RESOLUTION**

The following was introduced:

H. 5490 -- Reps. Yow, Mitchell, Wooten, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams and Willis: A HOUSE RESOLUTION TO RECOGNIZE MAY 12 THROUGH MAY 18, 2024, AS "POLICE WEEK IN SOUTH CAROLINA" AND TO HONOR THE SERVICE AND SACRIFICE OF LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY WHILE PROTECTING OUR COMMUNITIES AND SAFEGUARDING DEMOCRACY.

The Resolution was adopted.

[HJ]

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**HOUSE RESOLUTION**

The following was introduced:

H. 5491 -- Reps. B. L. Cox, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A HOUSE RESOLUTION TO CONGRATULATE DANNY VITELLO UPON BEING NAMED THE 2023 CITY OF GOOSE CREEK ADMINISTRATION DEPARTMENT EMPLOYEE OF THE YEAR AND THE CITY EMPLOYEE OF THE YEAR, TO THANK HIM FOR HIS DEDICATED SERVICE, AND TO WISH HIM CONTINUED SUCCESS IN THE FUTURE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 5492 -- Reps. Hager, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones,

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Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A HOUSE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES UPON THE PASSING OF LEON BRYANT III OF RINCON, GEORGIA, AND TO EXTEND THEIR DEEPEST SYMPATHY TO HIS LOVING FAMILY AND HIS MANY FRIENDS.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 5493 -- Rep. Hixon: A HOUSE RESOLUTION TO ENCOURAGE TAKING ALL PRACTICAL STEPS TO INCREASE THE USE OF SUSTAINABLE AVIATION FUEL IN THE STATE OF SOUTH CAROLINA TO ENSURE THAT THE STATE IS COMPETITIVE IN THE INDUSTRY.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 5494 -- Reps. McCravy, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber,

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Ligon, Long, Lowe, Magnuson, May, McCabe, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR DORA ANN WHITE OF GREENWOOD COUNTY FOR HER COMMITMENT TO HER GOD AND TO HIS CALLING ON HER LIFE.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 5495 -- Reps. J. E. Johnson, Anderson, Atkinson, Bailey, Brittain, Crawford, Guest, Hardee, Hayes, McGinnis, Schuessler, Alexander, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guffey, Haddon, Hager, Harris, Hart, Hartnett, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR COACH GARY GILMORE OF COASTAL CAROLINA UNIVERSITY FOR HIS REMARKABLE CAREER OF NEARLY THIRTY YEARS AS BOTH BASEBALL COACH AND MENTOR TO COUNTLESS STUDENT-ATHLETES, TO CONGRATULATE HIM ON THE OCCASION OF

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HIS APPROACHING RETIREMENT, AND TO WISH HIM MUCH SUCCESS IN ALL HIS FUTURE ENDEAVORS.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 1268 -- Senator Matthews: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 315 IN JASPER COUNTY FROM ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 170 TO ITS INTERSECTION WITH UNITED STATES HIGHWAY 17 "BISHOP DELORIS M. YOUNG HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY CONTAINING THESE WORDS.

The Concurrent Resolution was ordered referred to the Committee on Invitations and Memorial Resolutions.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 1304 -- Senator Jackson: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF BLUFF ROAD IN RICHLAND COUNTY FROM ITS INTERSECTION WITH WINDY DRIVE TO ITS INTERSECTION WITH PINEVIEW DRIVE "DEPUTY SHERIFF JACOB ERIC SALRIN MEMORIAL WAY" AND ERECT APPROPRIATE SIGNS OR MARKERS ALONG THIS PORTION OF HIGHWAY CONTAINING THESE WORDS.

The Concurrent Resolution was ordered referred to the Committee on Invitations and Memorial Resolutions.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 1306 -- Senator Turner: A CONCURRENT RESOLUTION TO CONGRATULATE GEORGE "FRANK" SHEPPARD UPON THE

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OCCASION OF HIS RETIREMENT, TO EXTEND DEEP APPRECIATION FOR HIS DECADES OF DISTINGUISHED SERVICE IN THE INSURANCE INDUSTRY TO THE PEOPLE OF SOUTH CAROLINA AND BEYOND, AND TO OFFER BEST WISHES FOR A SATISFYING AND REWARDING RETIREMENT.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**INTRODUCTION OF BILLS**

The following Bills and Joint Resolution were introduced, read the first time, and referred to appropriate committees:

S. 1076 -- Senator Turner: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 56-1-219 SO AS TO ESTABLISH A WORK ZONE SAFETY PROGRAM; BY AMENDING SECTION 56-1-15, RELATING TO THE ADMINISTRATION OF DRIVER'S LICENSE EXAMINATIONS, SO AS TO REQUIRE THAT DRIVER'S LICENSE APPLICANTS COMPLETE THE WORK ZONE SAFETY PROGRAM; AND BY AMENDING SECTION 56-1-130, RELATING TO LICENSE EXAMINATIONS AND BASIC AND CLASSIFIED LICENSES, SO AS TO REQUIRE THAT DRIVER'S LICENSE APPLICANTS COMPLETE THE WORK ZONE SAFETY PROGRAM.

Referred to Committee on Education and Public Works

S. 1242 -- Senators McLeod, Shealy, Matthews, Senn, Gustafson, Devine, Setzler and Malloy: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-3-14210, RELATING TO UNIVERSITY OF SOUTH CAROLINA 2017 AND 2022 WOMEN'S BASKETBALL NATIONAL CHAMPIONS SPECIAL LICENSE PLATES, SO AS TO PROVIDE FOR THE ISSUANCE OF "UNIVERSITY OF SOUTH CAROLINA 2024 WOMEN'S BASKETBALL NATIONAL CHAMPIONS" SPECIAL LICENSE PLATES BY THE DEPARTMENT.

Referred to Committee on Education and Public Works

S. 1276 -- Senators McElveen, Shealy and Young: A JOINT RESOLUTION TO SUSPEND THE PROVISIONS OF ACT 58 OF 2023, RELATING TO THE BOARD OF TRUSTEES FOR THE



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VETERANS' TRUST FUND OF SOUTH CAROLINA, UNTIL JUNE 1, 2026.

Referred to Committee on Medical, Military, Public and Municipal Affairs

S. 1285 -- Senator Malloy: A BILL TO AMEND ACT 259 OF 1961, RELATING TO THE HARTSVILLE COMMUNITY CENTER BUILDING COMMISSION, SO AS TO INCREASE THE COMMISSION'S MEMBERSHIP FROM THREE TO FIVE MEMBERS, AND TO DELETE REFERENCES TO INITIAL BOARD MEMBERS.

On motion of Rep. MITCHELL, with unanimous consent, the Bill was ordered placed on the Calendar without reference.

S. 1292 -- Senator Massey: A BILL TO AMEND ACT 595 OF 1992, AS AMENDED, RELATING TO THE BOARD OF TRUSTEES OF THE EDGEFIELD COUNTY SCHOOL DISTRICT, SO AS TO REAPPORTION THE SEVEN SINGLE-MEMBER DISTRICTS FROM WHICH THE TRUSTEES ARE ELECTED BEGINNING WITH THE SCHOOL DISTRICT ELECTIONS IN 2024, TO REDESIGNATE THE MAP NUMBER ON WHICH THESE ELECTION DISTRICTS ARE DELINEATED, AND TO PROVIDE DEMOGRAPHIC INFORMATION PERTAINING TO THE REAPPORTIONED ELECTION DISTRICTS.

Referred to Edgefield Delegation

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

Alexander	Anderson	Atkinson
Bailey	Ballentine	Bamberg
Bannister	Bauer	Beach
Bernstein	Blackwell	Bradley
Brewer	Brittain	Burns
Bustos	Calhoon	Carter
Caskey	Chapman	Chumley
Clyburn	Cobb-Hunter	Collins
Connell	B. L. Cox	Crawford
Cromer	Davis	Dillard
Elliott	Erickson	Felder
Forrest	Gagnon	Garvin

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Gibson	Gilliam	Gilliard
Guest	Guffey	Haddon
Hager	Hardee	Harris
Hart	Hartnett	Hayes
Henderson-Myers	Herbkersman	Hewitt
Hiott	Hixon	Hosey
Howard	Hyde	Jefferson
J. E. Johnson	J. L. Johnson	S. Jones
W. Jones	Jordan	Kilmartin
King	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	Magnuson
May	McCabe	McCrary
McDaniel	McGinnis	Mitchell
J. Moore	T. Moore	A. M. Morgan
T. A. Morgan	Moss	Murphy
Neese	B. Newton	W. Newton
O'Neal	Oremus	Ott
Pace	Pedalino	Pendarvis
Pope	Rivers	Robbins
Rose	Rutherford	Sandifer
Schuessler	Sessions	G. M. Smith
M. M. Smith	Spann-Wilder	Stavrinnakis
Taylor	Thayer	Thigpen
Trantham	Vaughan	Weeks
West	Wetmore	Wheeler
White	Whitmire	Williams
Willis	Wooten	Yow

**Total Present--120**

**LEAVE OF ABSENCE**

The SPEAKER PRO TEMPORE granted Rep. HENEGAN a leave of absence for the day due to family medical reasons.

**LEAVE OF ABSENCE**

The SPEAKER PRO TEMPORE granted Rep. GATCH a leave of absence for the day.

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**LEAVE OF ABSENCE**

The SPEAKER PRO TEMPORE granted Rep. NUTT a leave of absence for the day.

**STATEMENT BY REP. THIGPEN**

Rep. THIGPEN made a statement relative to his service in the House.

**SPECIAL PRESENTATION**

Rep. HAYES presented to the House the Lake View High School 1-A Girls Championship Varsity Basketball Team.

**SPECIAL PRESENTATION**

Rep. CALHOON presented to the House the Lexington County Baseball "Blowfish" 2023 Coastal Plain League Champions.

**SPECIAL PRESENTATION**

Rep. WOOTEN presented to the House the Gray Collegiate Academy "War Eagles" 2-A Varsity Cheerleading Team.

**SPECIAL PRESENTATION**

Rep. ROSE presented to the House Heathwood Hall Academy "Highlanders" 4-A SCISA Championship Girls Basketball Team.

**SPECIAL PRESENTATION**

Rep. BEACH presented to the House the Powdersville High School "Patriots" 3-A Championship Boys Basketball Team.

**CO-SPONSOR ADDED**

In accordance with House Rule 5.2 below:

“5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co-sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co-sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member's or co-sponsor's written notification in the House Journal. The removal or

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addition of a name does not apply to a bill or resolution sponsored by a committee.”

**CO-SPONSOR ADDED**

Bill Number: H. 5438  
Date: ADD:  
05/01/24 MCCRAVY

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. RIVERS a leave of absence for the remainder of the day.

**S. 1126--ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

S. 1126 -- Senators Kimbrell, Peeler, Rice, M. Johnson, Adams, Climer, Garrett, Cash, Young, Alexander, Reichenbach, Shealy, Grooms, Cromer, Turner, Loftis, Fanning, Gustafson, Goldfinch, Massey, Campsen, Bennett, Martin, Corbin and Verdin: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 4, ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, RELATING TO VOTER QUALIFICATIONS, SO AS TO CLARIFY THAT ONLY A CITIZEN OF THE UNITED STATES AND OF THIS STATE OF THE AGE OF EIGHTEEN AND UPWARDS WHO IS PROPERLY REGISTERED IS ENTITLED TO VOTE AS PROVIDED BY LAW.

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

SECTION 1. It is proposed that Section 4, Article II of the Constitution of this State be amended to read:

Section 4. ~~Every~~ Only a citizen of the United States and of this State of the age of eighteen and upwards who is properly registered is entitled to vote as provided by law.

SECTION 2. The proposed amendment must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

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“Must Section 4, Article II of the Constitution of this State, relating to voter qualifications, be amended so as to provide that only a citizen of the United States and of this State of the age of eighteen and upwards who is properly registered is entitled to vote as provided by law?”

Yes   
No

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

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Rep. JORDAN explained the Joint Resolution.

The yeas and nays were taken resulting as follows:  
Yeas 108; Nays 0

Those who voted in the affirmative are:

Anderson	Atkinson	Bailey
Ballentine	Bamberg	Bannister
Bauer	Beach	Bernstein
Blackwell	Bradley	Brewer
Brittain	Burns	Bustos
Carter	Caskey	Chapman
Chumley	Cobb-Hunter	Collins
Connell	B. L. Cox	Crawford
Cromer	Davis	Dillard
Erickson	Felder	Forrest
Gagnon	Gibson	Gilliam
Gilliard	Guest	Guffey
Haddon	Hager	Hardee
Harris	Hart	Hartnett
Hayes	Henderson-Myers	Herbkersman
Hewitt	Hiott	Hixon
Hosey	Hyde	Jefferson
J. E. Johnson	J. L. Johnson	S. Jones
W. Jones	Jordan	Kilmartin

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Kirby	Landing	Lawson
Leber	Ligon	Long
Lowe	Magnuson	May
McCabe	McCray	McGinnis
Mitchell	T. Moore	A. M. Morgan
T. A. Morgan	Moss	Murphy
Neese	B. Newton	W. Newton
O'Neal	Oremus	Ott
Pace	Pedalino	Pendarvis
Pope	Robbins	Rose
Rutherford	Sandifer	Schuessler
Sessions	G. M. Smith	M. M. Smith
Spann-Wilder	Stavrinakis	Taylor
Thayer	Trantham	Vaughan
Weeks	West	Wetmore
Wheeler	White	Whitmire
Williams	Willis	Yow

**Total--108**

Those who voted in the negative are:

**Total--0**

So, the Joint Resolution was read the second time and ordered to third reading.

**STATEMENT FOR JOURNAL**

I was temporarily out of the Chamber on legislative business during the vote on S. 1126. If I had been present, I would have voted in favor of the Joint Resolution.

Rep. Jason Elliott

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**H. 5458--ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

H. 5458 -- Regulations and Administrative Procedures Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO STANDARDS FOR LICENSING AMBULATORY SURGICAL FACILITIES, DESIGNATED AS REGULATION DOCUMENT NUMBER 5264, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Rep. BRADLEY explained the Joint Resolution.

The yeas and nays were taken resulting as follows:

Yeas 109; Nays 3

Those who voted in the affirmative are:

Alexander	Anderson	Atkinson
Bailey	Ballentine	Bamberg
Bannister	Bauer	Beach
Bernstein	Blackwell	Bradley
Brewer	Brittain	Burns
Bustos	Carter	Caskey
Chapman	Chumley	Clyburn
Cobb-Hunter	Collins	Connell
B. L. Cox	Crawford	Cromer
Davis	Dillard	Erickson
Felder	Forrest	Gagnon
Gibson	Gilliam	Gilliard
Guest	Guffey	Haddon
Hager	Hardee	Hart
Hartnett	Hayes	Henderson-Myers
Herbkersman	Hewitt	Hiott
Hixon	Hosey	Hyde
Jefferson	J. E. Johnson	J. L. Johnson
S. Jones	W. Jones	Jordan
Kilmartin	King	Kirby
Landing	Lawson	Leber
Ligon	Long	Lowe
McCabe	McCravy	McDaniel

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McGinnis	Mitchell	T. Moore
A. M. Morgan	T. A. Morgan	Moss
Murphy	Neese	B. Newton
W. Newton	O'Neal	Oremus
Ott	Pace	Pedalino
Pendarvis	Pope	Robbins
Rose	Rutherford	Sandifer
Schuessler	Sessions	G. M. Smith
M. M. Smith	Spann-Wilder	Stavrinakis
Taylor	Thayer	Trantham
Vaughan	Weeks	West
Wetmore	Wheeler	White
Whitmire	Williams	Willis
Yow		

**Total--109**

Those who voted in the negative are:

Harris	Magnuson	May
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**Total--3**

So, the Joint Resolution was read the second time and ordered to third reading.

**STATEMENT FOR JOURNAL**

I was temporarily out of the Chamber on legislative business during the vote on H. 5458. If I had been present, I would have voted in favor of the Joint Resolution.

Rep. Jason Elliott

**H. 5459--ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

H. 5459 -- Regulations and Administrative Procedures Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO MINIMUM STANDARDS FOR

[HJ]



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LICENSING HOSPITALS AND INSTITUTIONAL GENERAL INFIRMARIES, DESIGNATED AS REGULATION DOCUMENT NUMBER 5265, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Rep. BRADLEY explained the Joint Resolution.

The yeas and nays were taken resulting as follows:

Yeas 111; Nays 0

Those who voted in the affirmative are:

Alexander	Anderson	Atkinson
Bailey	Ballentine	Bamberg
Bannister	Bauer	Beach
Bernstein	Blackwell	Bradley
Brewer	Brittain	Burns
Bustos	Carter	Caskey
Chapman	Chumley	Clyburn
Cobb-Hunter	Collins	Connell
B. L. Cox	Crawford	Cromer
Davis	Dillard	Erickson
Felder	Forrest	Gagnon
Gibson	Gilliam	Gilliard
Guest	Guffey	Haddon
Hager	Hardee	Harris
Hart	Hartnett	Hayes
Henderson-Myers	Herbkersman	Hewitt
Hiott	Hixon	Hosey
Hyde	Jefferson	J. E. Johnson
J. L. Johnson	W. Jones	Jordan
Kilmartin	King	Kirby
Landing	Lawson	Leber
Ligon	Long	Lowe
Magnuson	May	McCabe
McCravy	McDaniel	McGinnis
Mitchell	T. Moore	A. M. Morgan
T. A. Morgan	Moss	Murphy
Neese	B. Newton	W. Newton
O'Neal	Oremus	Ott
Pace	Pedalino	Pendarvis

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Pope	Robbins	Rose
Rutherford	Sandifer	Schuessler
Sessions	G. M. Smith	M. M. Smith
Spann-Wilder	Stavrinakis	Taylor
Thayer	Trantham	Vaughan
Weeks	Wetmore	Wheeler
White	Whitmire	Williams
Willis	Wooten	Yow

**Total--111**

Those who voted in the negative are:

**Total--0**

So, the Joint Resolution was read the second time and ordered to third reading.

**STATEMENT FOR JOURNAL**

I was temporarily out of the Chamber on legislative business during the vote on H. 5459. If I had been present, I would have voted in favor of the Joint Resolution.

Rep. Jason Elliott

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1o S. 408 (LC-408.HA0004H)

Amend the bill, after the title but before the enacting words, by adding:

Whereas, South Carolina is achieving remarkable economic development success which is bringing jobs and prosperity to its citizens; and

Whereas, from January to December 2023, the state announced total capital investments of 9.22 billion dollars and over 14,000 jobs, the second largest amount in state history; and

Whereas, in 2022, the state announced 120 projects creating over 14,000 new jobs with 10.27 billion dollars in new capital investment, the largest amount in state history; and

Whereas, since 2017, the state has announced over 36.4 billion dollars in new investments and 86,378 new jobs; and

Whereas, according to the U.S. Census Bureau, South Carolina led the nation in population growth in 2023; and

Whereas, the rapidly expanding population and record breaking

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economic development successes necessitate a strategic and forward-thinking approach to developing new energy infrastructure capable of meeting the energy needs of South Carolina's residents and supporting the continued prosperity of the state; and

Whereas, sustaining this success in economic development requires an electric system that can grow and modernize to meet the demands that a prosperous and developing economy places on it; and

Whereas, the South Carolina General Assembly recognizes that the convergence of escalating population growth, record-breaking economic success, and the aging of existing energy infrastructure has created a critical juncture, demanding immediate and decisive action to avert an impending energy crisis; and

Whereas, the urgency of addressing this situation is underscored by the interconnected challenges of meeting surging energy demand, ensuring grid reliability, and fortifying the state's resilience against potential disruptions, thereby compelling the imperative for the timely construction of new energy plants to safeguard the continued well-being and economic vitality of South Carolina; and

Whereas, in light of these facts, it is important that the General Assembly take action to ensure that generation and transmission providers are able to plan, site, and construct new and replacement generation and transmission resources in a timely and cost-effective manner, utilizing procedures that are fair, prompt, efficient, and guided by an informed Public Service Commission; and

Whereas, the General Assembly has determined that certain aspects of the current regulatory structure in South Carolina can be revised to reduce the cost, delay, and uncertainty of planning, siting, and constructing new generation and transmission resources serving customers in this state; and

Whereas, the General Assembly further finds that the current circumstances present a unique opportunity to replace or limit reliance on the Williams Generating Station operated by Dominion Energy South Carolina, Inc. ("DESC") in Bushy Park, South Carolina; and the Winyah Generating Station operated South Carolina Public Service Authority ("SCPSA") in Georgetown, South Carolina, and perhaps other units as well, through a joint venture between these utilities; and

Whereas, DESC owns the site of the retired Canadys coal units in Colleton County (the "Canadys site") which represent an environmentally well characterized brownfield site with unique attributes, including electric transmission infrastructure on site, proximity to a major switching station interconnecting the DESC and

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SCPSA transmission systems serving coastal South Carolina, and reasonable proximity to natural gas supplies which can be accessed through existing natural gas rights of way; and

Whereas, modern combined cycle units provide dispatchability and operating flexibility that will allow DESC and SCPSA systems to continue to add large amounts of flexible resources to their systems without jeopardizing cost-efficient and reliable service to customers; and

Whereas, the integrated resource planning by both utilities consistently indicates the need for and benefit of additional combined cycle natural gas resources under multiple planning scenarios; and

Whereas, by pursuing replacement resources as a joint project, DESC and SCPSA can build larger, more fuel efficient, lower emitting units, and can reduce the capital cost per MW of these units by as much as 25% or more compared to building single, stand-alone units sized to meet their individual needs alone while at the same time reducing the environmental and land-use impact of the natural gas pipeline and transmission infrastructure required to support separate units; and

Whereas, the joint project can provide a unique opportunity to anchor the expansion of natural gas pipelines serving certain coastal counties of South Carolina where economic development is currently hampered by the lack of such supplies, thereby increasing jobs, prosperity and public welfare in those areas and can do so with minimal environmental disruption; and

Whereas, in light of the unique circumstances presented by the shared needs of DESC and SCPSA for replacement generation in the Charleston and Georgetown areas, the unique benefits of a partnership between them for this purpose, and the unique benefits of the Canadys site as the location for a joint resource, the General Assembly finds that these circumstances support amending the enabling act of the SCPSA to authorize it in a joint venture to develop and share in the output of one or more combined cycle natural gas units to be located at the Canadys site and encourages the utility to seek, as soon as practicable, a certificate as defined under the terms of the Utility Facility Siting and Environmental Protection Act for DESC to construct and operate combined cycle natural gas units to be located at the Canadys site; and

Whereas, Duke Energy Carolinas Bad Creek Pumped Storage facility, including ongoing uprates, is an approximate 1,640 MW energy storage facility located in Oconee County South Carolina; and

Whereas, Duke Energy Carolina has identified the opportunity to approximately double the output of the Bad Creek Pumped Storage facility by constructing new pump turbines, generators, and a new

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powerhouse; and

Whereas, by increasing the generating capacity at the Bad Creek facility, Duke Energy Carolinas can approximately double its existing peak hourly storage capacity; and

Whereas, in light of the unique circumstances presented by the potential expansion of Duke Energy Carolinas' energy storage capacity by expanding the Bad Creek facility without construction of a new reservoir, and considering the unique benefits for customers served by Duke Energy Carolinas' electrical system such an expansion represents, the General Assembly encourages the utility to complete evaluations related to expanding the Bad Creek facility to double its output; and

Whereas, in light of the unique circumstances presented in the plans of Duke Energy Carolinas LLC and Duke Energy Progress LLC to secure approximately 7,000 MW of natural gas generation facilities for the benefit of their customers in South Carolina, the General Assembly encourages the utilities to undertake such activities as may be necessary to pursue and facilitate additional natural gas generation to serve its customers in this state; and

Whereas, the South Carolina General Assembly recognizes the potential for substantial economic and environmental benefits through the implementation of robust energy efficiency and demand side management initiatives; and

Whereas, investing in energy efficiency and demand side management initiatives not only reduces overall energy consumption but also alleviates the strain on existing electric generation infrastructure, leading to cost savings for consumers, businesses, and the state; and

Whereas, the promotion of energy efficiency and demand side management initiatives offers a prudent and cost effective approach to address increasing energy demands, thereby lessening the necessity for construction of new electric generation facilities in the future, and contributing to a more sustainable and resilient energy future for South Carolina; and

Whereas, the South Carolina General Assembly acknowledges the transformative potential of advanced nuclear generation, such as small modular reactors (SMRs), understanding that their compact size addresses significant challenges associated with traditional nuclear power, offering the promise of expedited and cost-effective plant construction, coupled with enhanced safety in operational practices, along with offering reliable carbon-free energy generation that can operate nearly 24/7; and

Whereas, the South Carolina General Assembly recognizes the

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strategic importance of investigating in and pursuing advanced nuclear technologies such as small modular reactors and molten salt reactors at this time, understanding that proactive engagement in research and development positions the state to capitalize on future opportunities when SMRs become economically and technologically viable; and

Whereas, the SC Nexus for Advanced Resilient Energy consortium, developed in collaboration with our research universities, technical colleges, state agencies, the Savannah River National Laboratory, economic development non-profits, and private businesses, won the U.S. Department of Commerce's Economic Development Administration's designation as one of the Regional Technology and Innovation Hubs; and

Whereas, the South Carolina General Assembly recognizes establishing an Energy Policy Institute is a pivotal step towards supporting the efforts of SC Nexus and for guiding informed decision making for the state's energy future; and

Whereas, understanding the complexity of energy issues, the establishment of an Energy Policy Institute is essential to equipping the state with the necessary expertise and resources to make well informed choices, fostering a comprehensive understanding of intricate energy matters; and

Whereas, SC Nexus will assist the state as a global leader in advanced energy by developing, testing, and deploying exportable energy technologies and understanding that new manufactures of those technologies can locate their operations at a place of their choosing, an Energy Policy Institute is integral to positioning the state strategically for economic development success by ensuring the economic benefits resulting from SC Nexus remain in South Carolina, and ensuring that energy policies align with the state's growth objectives and policy goals, while simultaneously safeguarding the interests of ratepayers and promoting a sustainable and resilient energy landscape; and

Whereas, it is imperative to direct the Office of Regulatory Staff (ORS) to conduct a comprehensive energy assessment and formulate a ten year energy action plan not only to identify additional actions to take over the next decade to address the critical need to ensure an adequate and reliable power supply but also to serve as a proactive forum to thoroughly examine unresolved issues vital to achieving economic development success within the dynamic and evolving energy sector; and

Whereas, the South Carolina General Assembly determines that comprehensive legislation is needed to promote the development of new

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and reliable energy infrastructure resources, fostering resilient and reliable energy infrastructure critical to the economic success of the state of South Carolina. Now, therefore,

Amend the bill further, by striking all after the enacting words and inserting:

SECTION 1. Section 40-75-250 of the S.C. Code is amended to read:

Section 40-75-250. (A) If an applicant satisfies all licensure requirements as provided for in this article, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed professional counselor, marriage and family therapist, an addiction counselor, or of an associate, while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board.

(B) A person licensed under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(D) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and management treatment as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

~~(E)~~ A licensee who allows the license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon payment of a reinstatement fee and the current renewal fee. The board, by regulation, may impose additional requirements for reinstatement.

SECTION 2. Section 40-75-540 of the S.C. Code is amended to read:

Section 40-75-540. (A) The board shall promulgate regulations in accordance with Chapter 23, Title 1 (Administrative Procedures Act) establishing requirements for continuing education which must be met by a person licensed as a licensed psycho-educational specialist. An applicant for license renewal shall present evidence satisfactory to the board that continuing education requirements have been met.

(B) A person licensed under this chapter must receive

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at least one hour of continuing education in suicide assessment, treatment, and management treatment as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

SECTION 3. Section 40-63-250 of the S.C. Code is amended to read:

Section 40-63-250. (A) If an applicant satisfies all licensure requirements required in this chapter, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed social worker while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board.

(B) A licensee under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) A licensee under this chapter must indicate his or her category of licensure following his or her name or signature on all professional documents.

(D) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(E) A person licensed under this chapter must receive at least one contact hour of continuing education in suicide assessment, treatment, and management treatment as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

~~(E)~~(F) Any licensee who allows his license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon satisfactory explanation by the licensee of his failure to renew his license and upon payment of a reinstatement fee and the current renewal fee to be determined by the board. If a license has lapsed for more than one year, the board may impose further educational requirements for reinstatement. If a license has lapsed for more than two years, the person must reapply for licensure. Any person practicing as a social worker during the time that his license has lapsed has engaged in unlicensed practice and is subject to penalties provided for in Section 40-63-30.

SECTION 4. This act may be cited as the “South Carolina Energy Security Act”.



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SECTION 5. Section 58-3-20 of the S.C. Code is amended to read:

Section 58-3-20. (A) The commission is composed of ~~seven~~<sup>three</sup> members to be elected by the General Assembly in the manner prescribed by this chapter. Each member must have:

- (1) a baccalaureate or more advanced degree from:
  - (a) a recognized institution of higher learning requiring face-to-face contact between its students and instructors prior to completion of the academic program;
  - (b) an institution of higher learning that has been accredited by a regional or national accrediting body; or
  - (c) an institution of higher learning chartered before 1962; and
- (2) a background of substantial duration and an expertise in at least one of the following:
  - (a) energy issues;
  - (b) telecommunications issues;
  - (c) consumer protection and advocacy issues;
  - (d) water and wastewater issues;
  - (e) finance, economics, and statistics;
  - (f) accounting;
  - (g) engineering; or
  - (h) law.

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

~~(2) In the event there are Seven Congressional~~

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

~~(C) (B)(1) The General Assembly must provide for the election of the ~~seventhree~~-member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify. The commission members must be elected to terms of four years and until their successors are elected and qualify.~~

~~(2) The commission members must be elected from the state at large; however, membership on the commission should reflect all segments of the population of the State, to the greatest extent possible.~~

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

SECTION 6. Section 58-3-140 of the S.C. Code is amended to read:  
Section 58-3-140. (A)(1) Except as otherwise provided in Chapter 9 of this title, the commission is vested with power

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and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State.

(2) The commission must promulgate regulations to establish safety, maintenance, and inspection standards for the public utilities and may assess fines for public utilities that violate these standards.

(B)(1) The commission, in conducting its analysis and making a decision in matters involving electrical utilities, must consider the economic impact to the State when fixing just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every electrical utility in this State.

(2) The General Assembly declares the rates, services, and operations of electrical utilities are a matter of public interest and the availability of an adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina is a matter of public policy. When exercising its powers under this section, the commission must balance the public interest in determining the rates, services, and operations of electrical utilities. It is the policy of this State for the commission, in matters involving electrical utilities, to:

(a) ensure South Carolina customers have access to an adequate, reliable, and economical supply of energy resources;

(b) sustain growth in industrial and economic development by ensuring an electric generation, transmission, and distribution system that can grow and modernize to meet the demands that a prosperous and developing economy places on it;

(c) provide fair regulation of electrical utilities in the interest of the public in a manner that maintains the financial integrity of the electrical utility by assuring a sufficient and fair rate of return, supports economic development and industry retention, and provides just and reasonable rates to be established for entities providing electrical utility services to customers in this State while promoting adequate, reliable, and economical utility service to all of the citizens and residents of this State;

(d) provide the State and the public with a well-regulated electrical utility environment;

(e) assure that resources necessary to meet future

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growth through the provision of adequate, reliable electrical utility service include use of the entire spectrum of demand-side options, including but not limited to, conservation, load management, and energy efficiency programs as additional sources of energy supply and energy demand reduction;

\_\_\_\_\_ (f) provide just and reasonable rates and charges for electrical utility services without undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic generation and uses of energy;

\_\_\_\_\_ (g) assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities, and to that end, to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities;

\_\_\_\_\_ (h) recognize the important role of utilities in economic development and industry retention and the necessity for utilities to maintain the ability to finance continued investment in, and operation and maintenance of, the electric system, rapid restoration of power after major storms and outages, rate designs, and infrastructure necessary to attract and retain businesses and jobs to South Carolina, the ability to obtain financing at attractive rates, and to ensure a viable workforce for providing electricity and to attract such utility workers at market-competitive wages;

\_\_\_\_\_ (i) seek to encourage and promote harmony between public utilities, their users, and the environment;

\_\_\_\_\_ (j) foster the continued service of electrical utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare, economic development, and industry retention;

\_\_\_\_\_ (k) seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide economic development and industry retention;

\_\_\_\_\_ (l) encourage the continued study and research on new and innovative rate designs which will protect the State, the public, the ratepayers and the utilities;

\_\_\_\_\_ (m) facilitate the construction of facilities in and the extension of natural gas service to unserved and underserved areas in order to promote the public welfare throughout the State;

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(n) further the development of cleaner energy technologies on a cost-effective basis to protect the natural resources of this State, promote the health and well-being of the people of this State, and attract investments, create employment opportunities, drive economic growth, and foster innovation in this State; and

(o) accomplish regulatory processes and issue orders in a timely manner.

~~(B)~~(C) The commission must develop and publish a policy manual which must set forth guidelines for the administration of the commission. All procedures must incorporate state requirements and good management practices to ensure the efficient and economical utilization of resources.

~~(C)~~(D) The commission must facilitate access to its general rate request orders in contested matters involving more than one hundred thousand dollars by publishing an order guide which indexes and cross-references orders by subject matter and case name. The order guide must be made available for public inspection.

~~(D)~~(E) The commission must promulgate regulations to require the direct testimony of witnesses appearing on behalf of utilities and of witnesses appearing on behalf of persons having formal intervenor status, such testimony to be reduced to writing and prefiled with the commission in advance of any hearing. In contested case proceedings, the applicant seeking relief from the commission shall have the right to prefile rebuttal testimony responsive to the direct prefiled testimony of other parties. The commission may allow supplemental testimony in cases where new matters arise after the filing of direct testimony, provided that parties shall have the right to respond to such supplemental testimony. The procedural schedule for each contested case proceeding shall include dates for completion of each phase of discovery, including discovery related to the application or other initial pleading as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, rebuttal testimony of the applicant, and surrebuttal testimony but only if allowed by the commission upon motion that there is material new information for which surrebuttal testimony is required. The commission must act on a motion to allow surrebuttal testimony within three business days. Except upon showing of exceptional circumstances or surprise, all discovery must be completed not less than ten days prior to the hearing.

(F) The commission may convene public hearings to allow electrical utility customers to address the commission as public witnesses without intervening in the proceedings and without subjecting

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themselves to discovery or prefilng testimony. Public witnesses may address the commission on issues related to customer service, utility operations, reliability, economic hardship, affordability, environmental concerns, or other matters that affect them. The electrical utility and the Office of Regulatory Staff shall work to investigate and resolve individual service issues raised by public witnesses.

(G) Any other provision of law notwithstanding, to the extent the commission is authorized by the General Assembly to employ an independent third-party consultant to assist the commission in its duties with respect to a matter before the commission, such consultant may only rely upon evidence introduced by a party to that proceeding into the record subject to the requirements of the South Carolina Administrative Procedures Act. Further, the commission may not give any consultant employed by the commission party status in a proceeding before the commission.

~~(E)~~(H) Nothing in this section may be interpreted to repeal or modify specific exclusions from the commission's jurisdiction pursuant to Title 58 or any other title.

~~(F)~~(I) When required to be filed, tariffs must be filed with the office of the chief clerk of the commission and, on that same day, provided to the Executive Director of the Office of Regulatory Staff.

SECTION 7. Section 58-3-250(B) of the S.C. Code is amended to read:

(B) A copy of every final order or decision under the seal of the commission must be served by electronic service, or registered or certified mail, upon all parties to the proceeding or their attorneys. Service of every final order or decision upon a party or upon the attorney must be made by emailing a copy of the order to the party's email address provided to the commission or by mailing a copy to the party's last known address. If no email or other address is known, however, service shall be made by leaving a copy with the chief clerk of the commission. The order takes effect and becomes operative when served unless otherwise designated and continues in force either for a period designated by the commission or until changed or revoked by the commission. If, in the judgment of the commission, an order cannot be complied with within the time designated, the commission may grant and prescribe additional time as is reasonably necessary to comply with the order and, on application and for good cause shown, may extend the time for compliance fixed in its order.

SECTION 8. Section 58-4-10 of the S.C. Code is amended to read:

Section 58-4-10. (A) There is hereby created the Office

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of Regulatory Staff as a separate agency of the State with the duties and organizations as hereinafter provided.

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

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

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

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

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

SECTION 9. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-150. (A) To further advance and expand upon Executive Order 2023-18 which established the PowerSC Energy Resources and Economic Development Interagency Working Group, the Office of Regulatory Staff, in consultation with a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations, natural gas and electrical utilities, the South Carolina Public Service Authority, and other affected state agencies, shall prepare a comprehensive South Carolina energy assessment and action plan, hereinafter referred to as “the plan”. This plan must identify recommended actions over a ten-year period to ensure the availability of adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina. For purposes of this section, natural gas and electrical utilities also includes any investor-owned electrical utility, a public utility as defined in Section 58-5-10, the Public Service Authority, electric cooperatives, and any consolidated political subdivision that owns or operates in this State equipment or facilities for generating, transmitting, delivering, or

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furnishing electricity, but does not include an entity that furnishes electricity only to itself, its residents, or tenants when such current is not resold or used by others.

(B) The Office of Regulatory Staff, in collaboration with the electrical utilities and the South Carolina Public Service Authority, shall aggregate data and analyses from their most recent integrated resource plans approved by the commission, and include any updates or associated filings and other available data in order to create a statewide comprehensive view of the availability of an adequate, reliable, and economical supply of energy resources to the people and economy of South Carolina.

(C) The plan must detail factors, and make recommendations, essential to adequate, reliable, and economical supply of energy resources for the people and economy of South Carolina, including but not limited to:

(1) projections of energy consumption in South Carolina, including the use of fuel resources and costs of electricity and generation resources across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas used to serve the State;

(2) the adequacy of electricity generation, transmission, and distribution resources in this State to meet projections of energy consumption;

(3) the adequacy of infrastructure utilized by natural gas industries in providing fuel supply to electric generation plants or otherwise for end-use customers;

(4) the overall needs of the South Carolina electric grid and transmission system and details from the plans of each electrical utility and the South Carolina Public Service Authority to meet current and future energy needs in a cost-effective, reliable, economic, and environmental manner;

(5) an assessment of state and local impediments to expanded use of generation or distributed resources and recommendations to reduce or eliminate such impediments;

(6) how energy efficiency, demand-side management programs, and conservation initiatives across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas may be expanded to lower bills and reduce electric consumption;

(7) details regarding potential siting of energy resource and transmission facilities in order to identify any disproportionate adverse impact of such activities on the environment, agricultural community, land use, and economically disadvantaged or minority communities;



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(8) details regarding commercial and industrial consumer clean energy goals and options available to such customers to achieve these goals, including:

(a) an analysis of the barriers commercial and industrial consumers face in making such investments in this State;

(b) an analysis of any electric and natural gas regulatory barriers to the recruitment and retention of commercial and industrial customers in this State; and

(c) recommendations to address any barriers identified in items (a) and (b) in a manner that is consistent with the public interest and which is not duly impactful to nonparticipating customers as it pertains to rate and system impacts, and which is not unduly impactful to entities providing public utility services.

(C) In preparing the plan the Office of Regulatory Staff may retain an outside expert to assist with compiling this report.

(D) In addition to the information required by this section, the plan must include recommendations for legislative, regulatory, or other public and private actions to best ensure a reliable and reasonably priced energy supply in South Carolina that supports the continued growth and success of this State. In forming these recommendations, the Office of Regulatory Staff must confer with the stakeholder group to ensure the recommendations would likely achieve the intended result for the electric grid, electric generation, and natural gas resources serving South Carolina customers.

(E) The plan must be submitted to the Public Utilities Review Committee for approval.

(F) The provisions of this section are subject to funding.

SECTION 10. Title 58 of the S.C. Code is amended by adding:

CHAPTER 38

South Carolina Energy Policy Institute

Section 58-38-10. This chapter is known as and may be cited as the “South Carolina Energy Policy Research and Economic Development Institute” or “EPI”.

Section 58-38-20. The General Assembly finds that:

(1) It is in the public interest of South Carolina to establish an Energy Policy Research and Economic Development Institute, also referred to as EPI, to support the efforts of the Advanced Resilient Energy Nexus, also referred to as SC Nexus, and research and propose solutions to address major challenges in the complex and evolving area of energy generation and storage.

(2) Research and documenting reliable data is essential for

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thoughtful consideration of the complex issues and concerns impacting energy generation and storage and the need for timely, substantive, and thorough advice from the EPI to the South Carolina General Assembly is critical to continue to position this State as a global leader.

(3) Advancement through the EPI of the broad collaboration through the SC Nexus will assist the State as a global leader in advanced energy by developing, testing, and deploying exportable electricity technologies. It will also allow the State to leverage the region's dynamic and growing manufacturing base, superior research capabilities, and demonstrated record of public-private collaboration to innovate and commercialize emerging energy storage materials and manufacturing techniques, including a demonstrative microgrid implementation that integrates renewable energy and storage into the state's electricity systems.

(4) The topography of South Carolina, with its coastal plains and low country, confronts further complications. While the State possesses renewable energy resources like hydropower potential from its rivers and lakes and biomass from wood and landfill gas, the lack of sustainable energy production exacerbates the energy deficit. It is critical that South Carolina provide safe, reliable, and affordable energy.

(5) The industrial sector in South Carolina accounts for approximately one-third of the state's total energy use and heavily depends on energy consumption. Continued economic development and industry retention depends upon safe, reliable, and affordable energy generation.

(6) South Carolina will need to continue moving toward reliable power from emerging energy sources to ensure continued economic growth and secure energy for residential usage.

(7) The EPI shall collaborate across South Carolina in coordination with SC Nexus, Savannah River National Laboratory, energy utility providers, private industry, and workforce development to deliver advice on policy creation aligned with the state's distinctive needs and opportunities. EPI shall support and collaborate with SC Nexus, a consortium of public and private entities, formed within the South Carolina Department of Commerce concerning power generation, transmission, and storage.

Section 58-38-30. (A) The EPI shall be established by the University of South Carolina to serve as an expert and reliable advisory resource for state policymakers, government, and industry. This institute shall bring together a coalition of experts from various domains within the energy ecosystem, individuals and organizations specializing in

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innovating public policy approaches, as well as specialists from across higher education, including but not limited to, the University of South Carolina, Clemson University, and South Carolina State University. The EPI shall aid South Carolina in developing a strategic long-term approach to address energy-related challenges and economic development opportunities for the State of South Carolina.

(B) The EPI shall be governed by a board of six members which shall provide oversight and guidance to the EPI. This board shall be composed of:

- (1) Speaker of the House of Representatives or his designee;
- (2) President of the Senate or his designee;
- (3) Chairman of the Ways and Means Committee of the House of Representatives, or his designee;
- (4) Chairman of the Finance Committee of the Senate or his designee;
- (5) Chairman of the Labor, Commerce and Industry Committee of the House of Representatives or his designee; and
- (6) Chairman of the Judiciary Committee of the Senate or his designee.

Section 58-38-40. (A) Annual deliverables for the EPI shall align with the goals and priorities of critical state objectives and legislative needs of South Carolina as determined by the board.

(B) The EPI shall prepare concise and informative documents that outline the key energy policy issues in South Carolina for members of the South Carolina General Assembly. These briefs shall offer evidence-based recommendations and their potential impacts to assist the legislature in decision making.

(C) The EPI shall provide in-depth research on various aspects of energy policy relevant to South Carolina, at the direction of the board.

(D) The EPI shall provide stakeholder engagement reports, including identification and engagement with relevant stakeholders in the energy sector, including industry representatives, environmental groups, consumer advocates, and community organizations. The EPI shall compile reports on stakeholder perspectives, concerns, and suggestions to aid the legislature in understanding different viewpoints.

(E) The EPI shall evaluate the economic implications of different energy policy options, including the potential costs and benefits to the state's economy, job market, industry competitiveness, and underdeveloped communities. The EPI must use modeling techniques to estimate direct and indirect impacts on various sectors.

(F) The EPI shall develop practical framework recommendations

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for implementing energy policies in South Carolina, considering regulatory mechanisms, enforcement mechanisms, and coordination between different government agencies. These frameworks must address potential challenges and propose strategies for successful implementation.

(G) The EPI may host fellowships by which entities could offer the time and services of employees by which the EPI could leverage the knowledge, experience, and participation of such entities.

SECTION 11. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-195. (A)(1) The General Assembly finds:

(a) The Public Service Commission, hereinafter referred to as “the commission”, issued Order No. 2023-860 approving Dominion Energy South Carolina, Inc.’s integrated resource plan, and Order No. 2024-171 approving the South Carolina Public Service Authority’s integrated resource plan. The commission determined these integrated resource plans represented the most reasonable and prudent means to meet each utility’s energy and capacity needs as of the time each integrated resource plan was reviewed.

(b) Dominion Energy South Carolina, Inc.’s integrated resource plan identified a natural gas combined cycle unit as the optimum replacement unit for the Williams Station, which Dominion Energy South Carolina, Inc. intends to retire in 2030, assuming replacement capacity is available at that time. Dominion Energy South Carolina, Inc. proposed to locate this natural gas combined cycle unit facility at the site of its now retired Canadys coal plant, and Dominion Energy South Carolina, Inc. is pursuing a plan to build it jointly with the Public Service Authority under a Memorandum of Understanding, also referred to as the “Joint Resource”.

replacing the Williams Station with the Joint Resource best meets the criterion of “consumer affordability and least cost” pursuant to Section 58-37-40(C)(2)(b).

(d) The commission found that the Public Service Authority’s Preferred Portfolio, referred to as “Supplemental”, as the preferred plan to guide the Public Service Authority’s generation and transmission planning over the next three years, with updates as necessary, represented the most reasonable and prudent means of meeting the Public Service Authority’s energy and capacity needs.

(e) The commission found the Supplemental is 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.

(f) The commission determined the Public Service Authority sufficiently considered alternatives to the natural gas combined cycle unit.

(g) The commission found that the Supplemental allows the Public Service Authority to meet the electric power needs of its retail and wholesale customers reliably and affordably, reduces its carbon footprint, and adds flexibility and innovation to support a growing state economy.

(2) The General Assembly encourages Dominion Energy South Carolina, Inc. and the Public Service Authority to jointly complete evaluations related to the Joint Resource and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or authorize construction and operation of the facilities subject to this section in preference to all other pending nonemergency applications or requests. The General Assembly finds adding natural gas generation capacity at the retired Canadys coal site would advance the economy and general welfare of the State based on current conditions and information as of the effective date of this Act. However, this subsection does not exempt the entities from complying with the requirements of the Utility Facility Siting and Environmental Protection Act, including the requirement to seek commission approval for a certificate of environmental compatibility and public convenience and necessity nor does this subsection limit the commission's independent decision-making authority. The entities are further encouraged to use existing rights of way to the greatest extent practicable.

(B) The General Assembly hereby encourages Duke Energy Carolinas, LLC to complete evaluations for constructing a second powerhouse using the existing reservoir at Bad Creek Pumped Hydro Station in Oconee County, South Carolina, which will approximately double the size and peak hourly capacity of the facility, and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly further encourages Duke Energy Carolinas, LLC to complete evaluations as to what may be necessary to interconnect such an expansion of Bad Creek Pumped Hydro Station to the electric grid or otherwise deliver electric

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power from Duke Energy Carolinas, LLC to its customers, and to include such information as may be necessary from such evaluations in a filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction and operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(C) The General Assembly hereby encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to complete evaluations for constructing hydrogen capable natural gas generation or otherwise to place into service such natural gas generation within the utilities' balancing areas serving South Carolina, and to use such information from the evaluations as may be necessary to make a filing as soon as practicable with the commission to obtain a certification pursuant to Article 3 of this chapter or as otherwise required by law. The General Assembly further encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to determine what facilities may be necessary to interconnect such natural gas generation to the electric grid or otherwise deliver electric power from the utilities to its customers, and to include such information in any filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction or operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(D)(1) In the event any of the projects described in subsections (A), (B), or (C) are approved, the Office of Regulatory Staff, using its authority provided in Title 58, must continuously monitor the project or projects. This includes, but is not limited to, a review of the construction in progress, such as meeting projected timelines and financial projections are met. The Office of Regulatory Staff must provide monthly updates, in writing, to the commission and to the members of the General Assembly. Each electrical utility and the Public Service Authority must cooperate to the fullest extent with the Office of Regulatory Staff.

(2) The commission may, on its own motion, schedule a hearing to address concerns raised by the Office of Regulatory Staff in its written monthly review to the commission.

(3) The commission shall consider the Office of Regulatory Staff's written monthly reviews in any future matters concerning any

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facility described in this section.

SECTION 12. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-205. (A) The Public Service Authority shall have the power to jointly own, as tenants-in-common or through a limited liability company, with investor-owned electric utilities of electrical generation and transmission facilities, the power to plan, finance, acquire, own, operate, and maintain an interest in such plants and facilities necessary or incidental to the generation and transmission of electric power and the power to make plans and enter into such contracts as are necessary or convenient for the planning, financing, acquisition, construction, ownership, operation, and maintenance of such plants and facilities. However, the Public Service Authority shall own a percentage of such plants and facilities equal to the percentage of the money furnished or the value of property supplied by the Public Service Authority for the acquisition and construction of the plants and facilities. The Public Service Authority shall also own and control a like percentage of the electrical output thereof.

(B) The Public Service Authority shall be severally liable in proportion to its ownership share of such plants and facilities acquired pursuant to this section for the acts, omissions, or obligations performed, omitted, or incurred by the operator or other owners of the plants and facilities while acting as the designated agent of the Public Service Authority for the purposes of constructing, operating, or maintaining the plants and facilities, or any of them. However, the Public Service Authority shall not be otherwise liable, jointly or severally, for the acts, omissions, or obligations of other owners of the plants and facilities, nor shall any money or property of the Public Service Authority be credited or otherwise applied to the account of the operator or other owners of the plants and facilities, or be charged with any debt, lien, or mortgage as a result of any debt or obligation of the operator or other owners of the plants and facilities.

SECTION 13. Article 9, Chapter 7, Title 13 of the S.C. Code is amended to read:

Article 9

Governor's Nuclear Advisory Council

Section 13-7-810. There is hereby established a Nuclear Advisory Council in the ~~Department of Administration, Office of Regulatory Staff~~, which shall be responsible to the Executive Director of the ~~Department of Administration, Office of Regulatory Staff~~ and report to the Governor.

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Section 13-7-820. The duties of the council, in addition to such other duties as may be requested by the Governor, shall be:

(1) to provide advice and recommendations to the Governor on issues involving the use, handling, and management of the transportation, storage, or disposal of nuclear materials within South Carolina, or such use, handling, transportation, storage, or disposal of nuclear materials outside of the State which may affect the public health, welfare, safety, and environment of the citizens of South Carolina;

(2) to provide advice and recommendations to the Governor regarding matters pertaining to the Atlantic Compact Commission;

(3) to provide advice and recommendations to the Governor regarding the various programs of the United States Department of Energy pertaining to nuclear waste;

(4) to meet at the call of the chair or at a minimum twice a year; and

(5) to engage stakeholders and develop a strategic plan to advance the development of advanced nuclear generation including small modular reactors, molten salt reactors, and spent nuclear fuel recycling facilities to serve customers in this State in the most economical manner at the earliest reasonable time possible.

Section 13-7-830. The recommendations described in Section ~~13-7-620~~ 13-7-820 shall be made available to the General Assembly and the Governor.

Section 13-7-840. The council shall consist of ~~nineteen~~ members. One at-large member shall be appointed by the Speaker of the House of Representatives and one at-large member shall be appointed by the President of the Senate. ~~Seven~~Eight members shall be appointed by the Governor as follows: two shall be actively involved in the area of environmental protection; one shall have experience in the generation of power by nuclear means; one shall have experience in the field of nuclear activities other than power generation; two shall be scientists or engineers from the faculties of institutions of higher learning in the State; and ~~one~~two shall be from the public at large; of which one shall be appointed to serve as the chairman and director of the Nuclear Advisory Council. The terms of the members of the council appointed by the Governor shall be coterminous with that of the appointing Governor, but they shall serve at the pleasure of the Governor.

Vacancies of the council shall be filled in the manner of the original appointment.



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Section 13-7-850. The Governor shall designate the chairman from the membership. When on business of the council, members shall be entitled to receive such compensation as provided by law for boards and commissions.

Section 13-7-860. Staff support for the council shall be provided by the ~~Department of Administration~~Office of Regulatory Staff. The Director of the Nuclear Advisory Council must be a full-time employee of the Office of Regulatory Staff.

SECTION 14. Section 37-6-604(C) of the S.C. Code is amended to read:

(C) ~~The~~As of July 1, 2025, the Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission ~~that~~ Advocate's duties regarding intervention in matters that could impact consumers' utility rates, and may intervene as a party and ability to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate are transferred to the Office of Regulatory Staff in order to promote efficiency and avoid duplication of duties.

SECTION 15. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-196. Electrical utilities and the Public Service Authority are encouraged to explore the potential for deploying advanced nuclear facilities including, but not limited to, small modular nuclear facilities at suitable sites. Suitable sites may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and other brownfield sites, such as coal-generation sites. Any utility pursuing deployment of such nuclear facilities must provide annual progress reports to the commission and the Public Utilities Review Committee; this report may be in writing or in the form of testimony in an appropriate proceeding. The utility must provide estimates of the cost of the studies including, but not limited to, planning, licensing, and project development to the commission. If the commission finds such estimated costs are reasonable, prudent, and in the public interest, such costs may be recoverable through rates as they are incurred. Nothing in this section relieves an electrical utility of the burden of filing for a certificate under this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 16. Chapter 37, Title 58 of the S.C. Code is amended by adding:

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Section 58-37-70. (A) It is the policy of this State to promote the development and operation of advanced nuclear facilities, including small modular nuclear reactors, in the most economical manner and at the earliest reasonable time possible. These facilities are intended to provide electricity that is reliable, resilient, secure, and free of carbon dioxide emissions, as well as promote this state's economic development and industry retention.

(B) As used in this section:

(1) "Electrical utility" has the same meaning as provided in Section 58-27-10(7) and includes the South Carolina Public Service Authority.

(2) "Site" means the geographic location of one or more small modular nuclear reactors.

(3) "Small modular nuclear reactor" means an advanced nuclear reactor that produces nuclear power and has a power capacity of up to 500 megawatts per reactor.

(C) The commission may establish a small modular nuclear reactor pilot program, if such a program is endorsed by the Nuclear Advisory Council. A pilot program must include the following requirements:

(1) any entity that holds a current license from the U.S. Nuclear Regulatory Commission to construct or operate at least one existing nuclear electrical generating facility at the time of the application may apply to the commission for a certificate of public convenience and necessity pursuant to the Utility Facility Siting and Environmental Protection Act;

(2) a certificate may be granted if obtaining a certification of public convenience and necessity would permit the applicant to apply for, use, or leverage at least thirty percent of the construction costs of the small modular nuclear reactor by utilizing any benefits or incentives available to lower the capital or operating costs including, but not limited to, governmental funds, tax credits, grants, and loan guarantees;

(3) the costs and benefits of a small modular nuclear reactor are reasonable and prudent compared to the levelized costs of electricity generation from other resources, applying any governmental tax credits and incentives. Factors that must be considered in levelized costs include fuel factors, economic and environmental benefits, and costs associated with any relative externalities;

(4) no more than three small modular nuclear reactors may receive a permit pursuant to this pilot program.

(D) An application for this pilot program must include:

(1) if the project's location:

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(a) is on or adjacent to an existing or former coal electrical generation site;

(b) is on or adjacent to an existing nuclear facility;

(c) enables coal plant retirement or emissions reduction in the electrical utility's or the South Carolina Public Service Authority's balancing area; or

(d) supports diversity in energy production, reliability, and energy security;

(2) if the project is subject to competitive procurement or solicitation for services and equipment;

(3) a demonstration that the program's costs and benefits are reasonable and prudent and in the interest of South Carolina customers; and

(4) any other information the commission may wish to include in the application.

Nothing in this subsection limits any factors that the commission may consider in its determination of an application.

(E)(1) Reasonable and prudent costs incurred for a small modular nuclear reactor approved pursuant to this section shall be recoverable. In the event an electrical utility abandons a small modular nuclear reactor approved by the commission before its commercial operation, the electrical utility must provide a fulsome accounting to the commission of the circumstances of abandonment. Capital costs may only be recovered if the commission determines that the decision to abandon was reasonable, prudent, and in the public interest; however, these costs shall not include a rate of return. The commission may impose conditions it determines to be necessary to protect customers against unreasonable construction, development, or operational risk including, but not limited to, reporting, inspection, and the potential of requiring the utility to hire an independent third-party construction monitor to evaluate the prudence of the utility's actions and associated expense during the development of the project and construction of the reactor.

(2) The commission must not allow any cost recovery related to a small modular nuclear reactor outside of a rate case.

(F)(1) In addition to the small modular nuclear facility pilot program, electrical utilities and the South Carolina Public Service Authority are encouraged to evaluate the potential for deploying nuclear facilities at suitable sites within this State. A "suitable site" may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and brownfield sites, such as coal generation sites.

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(2) When evaluating the potential of a nuclear facility, the applicant must provide notice and annual progress reports to the Public Utilities Review Committee, the Nuclear Advisory Council, and the commission. When available, the applicant must also provide cost estimates of the studies related to a potential nuclear facility to serve customers in South Carolina. This includes, but is not limited to, planning, licensing, and project development, the anticipated timeline of an early site permit, and current possibilities or barriers to co-ownership of such facilities, and available federal benefits which may defray costs of these facilities.

(3) In the event the commission finds cost estimates pursuant to item (2) are reasonable and prudent, the costs may be recoverable through rates, even if an application for a certificate of environmental compatibility and public convenience and necessity have not been filed. However, these costs shall not include a rate of return.

(G) Nothing in this section relieves an electrical utility or the South Carolina Public Service Authority of the burden of filing for a certificate pursuant to this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 17. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Article 3

Energy Infrastructure Projects

Section 58-37-100. As used in this article:

(1) “Agency” means any agency, department, board, commission, or political subdivision of this State. However, it does not include the Public Service Commission, except for Sections 58-37-110 and 58-37-120.

(2) “Application” means a written request made to an agency for grant of a permit or approval of an action of matter within the agency’s jurisdiction pertaining to an energy infrastructure project.

(3) “Brownfield energy site” means an existing or former electrical generating site or other existing or former industrial site.

(4) “Energy corridor” means a corridor in which a utility or the South Carolina Public Service Authority has:

(a) transmission lines with a rated voltage of at least 110 kilovolts, including the substations, switchyards, and other appurtenant facilities associated with such lines; or

(b) high pressure natural gas transmission pipelines and the metering, compression stations, valve station, and other appurtenant facilities associated with such lines.

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(5) “Energy corridor project” means an energy infrastructure project that involves the expansion of electric or natural gas delivery capacity in whole or in principal part within an existing energy corridor.

(6) “Energy infrastructure project” means the construction, placement, authorization, or removal of energy infrastructure including, but not limited to, electric transmission and generation assets, natural gas transmission assets, and all associated or appurtenant infrastructure and activities, including communications and distribution infrastructure.

(7) “Permit” means a permit, certificate, approval, registration, encroachment permit, right of way, or other form of authorization.

(8) “Person” means an individual, corporation, association, partnership, trust, agency, or the State of South Carolina.

Section 58-37-110. (A) Given the importance of sufficient, reliable, safe, and economical energy to the health, safety, and well-being of the citizens of South Carolina and to the state’s economic development and prosperity, the General Assembly finds that the prompt siting, permitting, and completion of energy infrastructure projects, energy corridor projects, and brownfield electrical generation projects are crucial to the welfare of the State.

(B) All state agencies are instructed to give expedited review of applications for energy infrastructure projects, to provide reasonable and constructive assistance to applicants to allow the applicants to comply with state law and regulatory requirements as expeditiously as possible, and to be guided by the policy goals established in subsection (A).

(C) All state agencies are instructed to give due weight to the reduction in the environmental, aesthetic, and socioeconomic impacts that are incurred to support the safe, reliable, and economic provision of energy to the people of South Carolina when energy infrastructure projects can be located in existing energy corridors or on brownfield energy sites, and shall consider the relative reductions in such impacts compared to greenfield projects in evaluating projects in existing energy corridors or on brownfield energy sites.

Section 58-37-120. (A) Any agency presented with an application for a permit for an energy infrastructure project shall issue a decision on the application no later than six months after the date the application is received by the agency. If the agency fails to take final action within six months of receipt of the application, the application shall be deemed approved, and the agency shall promptly issue documentation that the applicant may reasonably request establishing that the agency has granted the relief requested.

(B) Upon receipt of an application, the agency shall promptly

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review it for sufficiency and shall provide the applicant with a list of all deficiencies within thirty days of receipt. The identification of by the agency of deficiencies in the application shall not toll the six-month period for agency determination.

Section 58-37-130. The applicant or any person whose private rights are affected by an agency decision or action on an application for a permit for any energy infrastructure project may appeal that decision or action to the South Carolina Supreme Court. The Supreme Court shall hear these appeals as a direct appeal in accordance with the South Carolina Appellate Court Rules. The Court shall provide for an expedited briefing and hearing of the appeal, in preference to all other nonemergency matters on its docket, and decide such appeals on an expedited basis.

Section 58-37-140. The provisions of this article shall expire ten years after its effective date.

SECTION 18. Section 58-40-10(C) of the S.C. Code is amended to read:

(C) “Customer-generator” means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates or discharges electricity from a renewable energy resource, including an energy storage device configured to receive electrical charge solely from an onsite renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a)(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(ii) after June 1, 2024, not more than the lesser of five thousand kilowatts (5,000kW AC) or one hundred percent of contract demand for a nonresidential customer, provided the customer-generator is on a time-of-use rate schedule and any excess energy produced by the customer-generator is credited and reset at the end of each monthly period; or

(iii) more than five thousand kilowatts (5,000kW AC) if agreed to by the customer-generator and the electrical utility, provided that the electrical utility submits the agreement to the commission for consideration and approval if the commission finds the agreement to contain appropriate ratemaking provisions and is in the public interest; or

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(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

SECTION 19. Section 58-41-30 of the S.C. Code is amended to read:

Section 58-41-30. (A) The ability to utilize clean energy resources for electric power generation is important to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State.

(B) The commission shall be responsive to the clean energy needs of customers and the economic development and industry retention implications for the State when reviewing and approving voluntary clean energy programs. The commission shall consider updates to these voluntary renewable energy programs on an ongoing basis.

(C) Within one hundred and twenty days of the effective date of this chapter, ~~subject to subsection (F)~~, each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the commission, ~~unless as of July 1, 2024, the electrical utility already has a voluntary renewable energy program that conforms with the requirements of this section on file with the commission.~~ The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties shall have the right to participate in the proceeding. The commission ~~may~~must periodically hold additional proceedings to ~~update the program~~ evaluate whether updates to the programs are necessary. At a minimum, each electrical utility must submit to the commission a program for which the program shall provide that:

(1) the participating customer shall have the right to select the renewable energy facility and negotiate with the renewable

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energy supplier on the price to be paid by the participating customer for the energy, capacity, and clean energy environmental attributes of the renewable energy facility and the term of such agreement so long as such terms are consistent with the voluntary renewable program service agreement as approved by the commission;

(2) the renewable energy contract and the participating customer agreement must be of equal duration;

(3) in addition to paying a retail bill calculated pursuant to the rates and tariffs that otherwise would apply to the participating customer, reduced by the amount of the generation credit, a participating customer shall reimburse the electrical utility on a monthly basis for the amount paid by the electrical utility to the renewable energy supplier pursuant to the participating customer agreement and renewable energy contract, plus an administrative fee approved by the commission; and

(4) eligible customers must be allowed to bundle their demand under a single participating customer agreement and renewable energy contract and must be eligible annually to procure an amount of capacity as approved by the commission.

(D) The commission must approve voluntary renewable energy programs, in addition to those provided for in subsection (C), where the participating customer purchases clean energy environmental attributes of new or existing renewable energy facilities owned and operated and recovered on a cost-of-service basis by the electrical utility or otherwise supplies through the execution of agreements with third parties within the utility's balancing authority area. Voluntary renewable energy programs shall also facilitate behind-the-meter options for customers and access to renewable energy resource generation.

~~(B)~~(E) The commission may approve a program that provides for options that include, but are not limited to, both variable and fixed generation credit options.

~~(C)~~(F) The commission ~~may~~ shall limit the total portion of each electrical utility's voluntary renewable energy program that is eligible for the program at a level consistent with the public interest and shall provide standard terms and conditions for the participating customer agreement and the renewable energy contract, subject to commission review and approval.

~~(D)~~(G) A participating customer shall bear the burden of any reasonable costs associated with participating in a voluntary renewable energy program. ~~An electrical utility may not charge any~~



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~~nonparticipating customers for any costs incurred pursuant to the provisions of this section. Purchased power costs incurred by an electrical utility as a result of subsection (C) shall be recovered in the electrical utility's fuel clause pursuant to Section 58-27-865.~~

~~(E)(H)~~ A renewable energy facility may be located anywhere in the electrical utility's service territory within the utility's balancing authority.

~~(F) If the commission determines that an electrical utility has a voluntary renewable energy program on file with the commission as of the effective date of this chapter, that conforms with the requirements of this section, the utility is not required to make a new filing to meet the requirements of subsection (A).~~

SECTION 20. Section 58-41-10 of the S.C. Code is amended by adding:

(17) "Energy storage facilities" means any commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time including, but not limited to, electrochemical, thermal, and electromechanical technologies.

SECTION 21. Section 58-41-20 of the S.C. Code is amended to read:

Section 58-41-20. (A) As soon as is practicable after the effective date of this chapter, the commission shall open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within six months after the effective date of this chapter, and at least once every twenty-four months thereafter, the commission shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within such proceeding the commission shall approve one or more standard form power purchase agreements for use for qualifying small power production facilities not eligible for the standard offer. Such power purchase agreements shall contain provisions, including, but not limited to, provisions for force majeure, indemnification, choice of venue, and confidentiality provisions and other such terms, but shall not be determinative of price or length of the power purchase agreement. The commission may approve multiple form power purchase agreements to accommodate various generation technologies and other project-specific characteristics. This provision shall not restrict the right of parties to enter into power purchase agreements with terms that differ from the commission-approved

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form(s). Any decisions by the commission shall be just and reasonable to the ratepayers of the electrical utility, in the public interest, consistent with PURPA and the Federal Energy Regulatory Commission's implementing regulations and orders, and nondiscriminatory to small power producers; and shall strive to reduce the risk placed on the using and consuming public.

(1) Proceedings conducted pursuant to this section shall be separate from the electrical utilities' annual fuel cost proceedings conducted pursuant to Section 58-27-865.

(2) Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(B) In implementing this chapter, the commission shall treat small power producers on a fair and equal footing with electrical utility-owned resources by ensuring that:

(1) rates for the purchase of energy and capacity fully and accurately reflect the electrical utility's avoided costs;

(2) power purchase agreements, including terms and conditions, are commercially reasonable and consistent with regulations and orders promulgated by the Federal Energy Regulatory Commission implementing PURPA; and

(3) each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility or incurred by the electrical utility, including, but not limited to, energy, capacity, and ancillary services provided by or consumed by small power producers including those utilizing energy storage equipment. Avoided cost methodologies approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility.

(C) The avoided cost rates offered by an electrical utility to a small power producer not eligible for the standard offer must be calculated based on the avoided cost methodology most recently approved by the commission. In the event that a small power producer and an electrical utility are unable to mutually agree on an avoided cost rate, the small power producer shall have the right to have any disputed issues resolved by the commission in a formal complaint proceeding. The commission may require mediation prior to a formal complaint proceeding.

(D) A small power producer shall have the right to sell the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by

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delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

(E)(1) Electrical utilities shall file with the commission power purchase agreements entered into pursuant to PURPA, resulting from voluntary negotiation of contracts between an electrical utility and a small power producer not eligible for the standard offer.

(2) The commission is authorized to ~~open a generic docket for the purposes of creating programs~~ approve programs proposed by electrical utilities for the competitive procurement of energy and capacity from renewable energy facilities and, at the electrical utility's option, associated co-located energy storage by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

(3) In establishing standard offer and form contract power purchase agreements, the commission shall consider whether such power purchase agreements should prohibit any of the following:

(a) termination of the power purchase agreement, collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or

(b) the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or

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rate structures as proposed by intervening parties and approved by the commission, including, but not limited to, a reduction in the contract price relative to the ten year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to subsection (A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

(2) Once an electrical utility has executed interconnection agreements and power purchase agreements with qualifying small power production facilities located in South Carolina with an aggregate nameplate capacity equal to twenty percent of the previous five-year average of the electrical utility's South Carolina retail peak load, that electrical utility shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with the terms, conditions, rates, and terms of length for contracts as determined by the commission in a separate docket or in a proceeding conducted pursuant to subsection (A). The commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state's policy of encouraging renewable energy.

(3) Any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that have been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities within the electrical utility's balancing authority area in South Carolina may competitively procure new renewable energy capacity pursuant to that competitive solicitation process as a means of complying with the Public Utility Regulatory Policies Act. Further, the commission must establish a five-year term for energy purchased at administratively established avoided cost rates outside of competitive procurement of renewable energy resources, with the exception of voluntarily negotiated agreements to serve the public

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interest, for any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that has been approved by the commission if the commission determines that doing so will incentivize participation in the competitive procurement process.

(G) Nothing in this section prohibits the commission from adopting various avoided cost methodologies or amending those methodologies in the public interest.

(H) Unless otherwise agreed to between the electrical utility and the small power producer, a power purchase agreement entered into pursuant to PURPA may not allow curtailment of qualifying facilities in any manner that is inconsistent with PURPA or implementing regulations and orders promulgated by the Federal Energy Regulatory Commission.

~~(I) The commission is authorized to employ, through contract or otherwise, third party consultants and experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the report are intended to be used by the commission along with all other evidence submitted during the proceeding to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility~~

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~~during the development of the report and whether there were any material information requests that were not adequately fulfilled by the electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. 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.~~

(J)-(I) Each electrical utility's avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission. The commission may approve any confidentiality protections necessary to allow for independent review and verification of the avoided cost filing.

SECTION 22. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-25. (A) Unless an electrical utility makes an application pursuant to subsection (F) or (G), electrical utilities may file for commission approval of a program for the competitive procurement of renewable energy facilities which may also include, at the utility's option, associated co-located energy storage facilities, also referred to as "eligible facilities", or purchase one-hundred percent of the output from such eligible facilities, including all energy, capacity, ancillary services, and environmental and renewable attributes. Eligible facilities may be located anywhere in the electrical utility's balancing authority area to meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan and associated filings. The commission may not grant approval unless the commission finds and determines that the electrical utility satisfied the requirements of this section and the proposed program is just and reasonable and in the best interests of the electrical utility's customers.

(B) An electrical utility's competitive procurement program filed pursuant to this section must describe the solicitation process, eligibility criteria, timelines, bid evaluation methodology, and identify whether resources procured are intended to also service customer-directed renewable energy procurement programs. The program must be designed to procure renewable energy facilities and at the utility's election, associated co-located energy storage resources, or the output of those facilities, subject to the following requirements:

(1) renewable energy facilities, and if applicable, energy storage resources, or their output, must be procured via a competitive solicitation

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process open to all market participants that meet minimum stated eligibility requirements;

(2) the electrical utility shall issue public notification of its intention to issue a competitive solicitation to procure renewable energy facilities and associated co-located energy storage facilities, if applicable, at least ninety days prior to the release of the solicitation, including identifying the proposed target procurement volume, procurement process, and timeline for administering the solicitation;

(3) renewable energy facilities eligible to participate in competitive procurement are those that use renewable generation resources identified in Section 58-39-120(F), which must also satisfy that electrical utility's capacity, energy, or operational needs, as identified by the electrical utility, and take into account the required operating characteristics of the needed capacity;

(4) energy storage facilities, if included by the electrical utility in the solicitation, must be associated equipment located at the same site as the renewable energy facility;

(5) electrical utilities may seek to ensure that their procurement of eligible facilities results in a reasonable balance of ownership of eligible facilities between such utility, including its affiliates and unrelated market participants, and may offer self-developed proposals. However, if an electrical utility or its affiliate seek to participate in the procurement, the electrical utility's program must include an independent evaluator to evaluate all bids offered and to ensure they are fairly and competitively evaluated. For purposes of this section, "independent evaluator" means an independent third party retained by the electrical utility that has no ownership in the electrical utility or a market participant and has the skills and experience necessary to oversee the solicitation process and provide the utility with an independent evaluation of all proposals for ultimate selection. At the conclusion of the solicitation, the independent evaluator shall report to the commission on the openness and fairness of the bid evaluation process and certify that the selection of proposals adhered to the evaluation methodology and requirement of the program.

(C) An electrical utility must make the following publicly available at least forty-five days prior to each competitive solicitation:

(1) pro-forma contract to inform prospective market participants of the procurement terms and conditions for the output purchased by the electrical utility from eligible resources. The pro-forma contract must:

(a) provide for the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities

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owned and operated by third parties that commit to allow the procuring electrical utility rights to dispatch, operate, and control the solicited renewable energy facilities in the same manner as the electrical utility's own generating resources;

(b) include standardized and commercially reasonable requirements for contract performance security; and

(c) define limits and compensation for resource dispatch and curtailments.

In the event an electrical utility chooses to procure output from co-located storage, the pro-forma contract must also cover similar terms and conditions as specified herein for those eligible facilities.

(2) pro-forma agreements to govern the procurement of eligible facilities by the electrical utility from market participants;

(3) bid evaluation methodology that ensures all bids are treated equitably, including price and non-price evaluation criteria; and

(4) interconnection requirements, including specification of how bids without existing interconnection agreements will be treated for purposes of evaluation.

(D) After bids are submitted and evaluated, the electrical utility will elect the winning bids based upon the public evaluation methodology.

(E) An electrical utility shall file with the commission a public report summarizing the results of each competitive solicitation within thirty days of finalizing the contract with the winning bidder. The report must include, at a minimum, a summary of the bids received and an anonymized list of the project awards, including size, location, and average award price and tenor.

(F) Notwithstanding the requirements in subsections (B) and (C), the results of all other competitive procurement programs undertaken by an electrical utility within its balancing authority area outside of South Carolina that will serve customers in the electrical utility's balancing authority area within South Carolina and are open to equal participation by eligible facilities located within South Carolina may be approved by the commission if the commission determines such programs enable economic, reliable, and safe operation of the electricity grid in a manner consistent with the public interest. For purposes of this section, "public interest" shall also include the ability of customers to subscribe to customer programs which leverage the competitively procured solar and potential storage contemplated within this section. Any electrical utility that requests acceptance of a system-wide procurement pursuant to this section must demonstrate to the commission that the utility has adhered to subsection (D) as defined in that specific competitive procurement



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program and submit the post solicitation report to the commission, as required by subsection (E).

(G) The commission may determine that a competitive procurement program within an electrical utility's balancing authority area outside of South Carolina that serves customers in the utility's area within South Carolina and is open to equal participation by eligible facilities located within South Carolina satisfies the requirements of this section.

(H) Electrical utilities are permitted to recover costs incurred pursuant to this section, including reasonable and prudent administrative costs to develop and propose procurements under this section, and if approved by the commission, the costs resulting from such procurements through rates established pursuant to Section 58-27-865 or otherwise through rates established pursuant to Section 58-27-870. If the commission denies an application made pursuant to subsection (F) or (G) of this section, and the utility continues with the procurement, then the utility must allocate all costs and benefits associated with the resources being procured away from South Carolina customers.

(I) An electrical utility administering a program for the competitive procurement of renewable energy resources and storage facilities that has been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities located in South Carolina may utilize such programs as means to satisfy its purchase obligations for avoidable capacity from qualifying small power production facilities under the Public Utility Regulatory Policies Act, consistent with Section 58-41-20(F)(3).

SECTION 23.A.A. Section 58-33-20 of the S.C. Code is amended by adding:

(10) The term "like facility" with reference to generation facilities and without limitation, includes a facility or facilities that are proposed to provide capacity on a site currently or previously used for siting electric generation that replaces the capacity of a facility or facilities that are being retired, downrated, mothballed, or dedicated to standby or emergency service at the same site, limited to facilities no more than 300 megawatts, so long as those new facilities will provide an amount of effective load-carrying capacity that in whole or in part will serve to replace the capacity to be lost as a result of retirement, and includes associated transmission facilities needed to deliver power from that facility to customers. A "like facility" with reference to transmission facilities, and without limitation, includes any facility that represents the rebuilding, reconductoring, paralleling, increasing voltage, adding circuits or otherwise reconfiguring of an existing transmission line or

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other transmission facilities including, without limitation, projects to increase the capacity of such facilities, provided such facilities are: (a) located materially within a utility right of way or corridor; (b) located materially within a new right of way or corridor; or (c) substantially located on the property of a customer, prospective customer, or the State.

B. Section 58-33-20(2)(a) of the S.C. Code is amended to read:

(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 or that requires a footprint of more than one hundred twenty-five acres of land.

SECTION 24. Article 3, Chapter 33, Title 58 of the S.C. Code is amended to read:

Article 3

Certification of Major Utility Facilities

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. Upon application for a determination by the Commission that a proposed utility facility constitutes a like facility replacement, the Commission must issue a written order approving or denying the application within sixty days of filing. If the Commission fails to issue a written order within sixty days of the application’s filing, the application shall be deemed as approved. 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

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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;

(d) which is a hydroelectric generating facility over which the ~~Federal Power Commission~~Federal Energy Regulatory Commission has licensing jurisdiction; or

(e) which is a transmission line or associated electrical transmission facilities constructed by the South Carolina Public Service Authority; (i) for which construction either is commenced within one year after January 1, 2022; or (ii) which is necessary to maintain system reliability in connection with the closure of the Winyah Generating Station, provided that such transmission is not for generation subject to this chapter; or (iii) which is necessary to serve an identified commercial or industrial customer to promote economic development or industry retention as determined by the South Carolina Public Service Authority and agreed to by the Office of Regulatory Staff where such agreement is documented in a letter by the Office of Regulatory Staff to the Public Utilities Review Committee and the commission.

(5) Any person intending to construct a major utility facility excluded from this chapter pursuant to subsection (4) of this section or Section 58-33-20(10) 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

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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,~~ No permission from the Commission shall be required to proceed with initial clearing, excavation, dredging, and initial construction of any facility which constitutes a component of the preferred generation plan in an integrated resource plan or update approved by the Commission pursuant to Chapter 37 of this title, or any like facility; provided 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)(a) Notwithstanding the provisions of item (7), and not limiting the provisions above, a person may not commence construction of a major utility facility for generation in the State of South Carolina without first having made a demonstration. In seeking a certificate, the applicant must provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost, reliability, schedule constraints, fuel cost and availability, transmission constraints and costs, ancillary services capabilities, current and reasonably expected future environmental costs and restrictions, that the facility supports system efficiency and reliability in light of those considerations, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. The commission is authorized to adopt rules for such evaluation of other generation options.~~

~~(b) The commission may, upon a showing of a need, require a commission approved process that includes Office of Regulatory Staff may provide to the commission a report that includes any or all of the following:~~

~~(i) the an assessment of an unbiased independent evaluator retained by the Office of Regulatory Staff as to reasonableness of any certificate sought under this section for new generation;~~

~~(ii) a report from the independent evaluator to the commission regarding the transparency, completeness, and integrity of bidding processes, if any;~~

~~(iii) an assessment of whether there was a reasonable period for interested parties to review and comment on~~

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proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade secrets that could hamper future negotiations; however, the independent evaluator may access all such information;

~~(iv) independent evaluator access and review of final bid evaluation criteria and pricing information for any and all projects to be evaluated in comparison to the request for proposal bids received;~~

~~(v) access through discovery, subject to appropriate confidentiality, attorney-client privilege or trade secret restrictions, for parties to this proceeding to documents developed in preparing the certificate of public convenience and necessity application;~~

~~(vi) (iv) a demonstration that an assessment of whether the facility is consistent with an integrated resource plan or update approved by previously filed with the commission or is otherwise justified by generation planning modeling comparable to that filed as part of the utility's integrated resource plan but updated with current data concerning system loads, fuel prices, environmental regulations, location-specific transmission costs, updated construction costs and updated construction timelines, updated costs of gas supply facilities, if any, and other relevant costs, schedules or inputs establishing that the facility in question supports system economy and reliability; and~~

~~(vii) (v) an assessment detailing the treatment of utility affiliates in the same manner as compared to nonaffiliates participating in the request for proposal process, if any.~~

~~(9) The applicant may, but must not be required to, issue requests for proposals or otherwise conduct market procurement activities in support of the showings required pursuant to this chapter.~~

~~(10) Notwithstanding any other provision in this section, an electrical utility serving customers in this state may seek a certificate of public convenience and necessity when building a major utility facility, as defined in Section 58-33-20(2), in another state but within the electrical utility's balancing area serving customers in South Carolina. In such a case, the provisions of Sections 58-33-120, 58-33-140, and 58-33-160(1)(b), (c), and (e) shall not apply, but all other requirements of this section affecting customers in this state shall apply. In addition:~~

~~(a) an applicant for a certificate shall file an application with the commission in such form as the commission may prescribe. The application must contain the following information:~~

~~(i) a description of the location and of the major~~

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utility facility to be built;

\_\_\_\_\_ (ii) a summary of any studies which have been made by or for the applicant of the environmental impact of the major utility facility;

\_\_\_\_\_ (iii) a statement explaining the need for the major utility facility;

\_\_\_\_\_ (iv) any other information the applicant may consider relevant or as the commission may by regulation require. A copy of the report referred to in item (8)(b) must be filed with the commission, if ordered by the commission, and shall be available for public information.

\_\_\_\_\_ (b) The parties to a proceeding for a certificate pursuant to this section shall include:

\_\_\_\_\_ (i) the applicant;

\_\_\_\_\_ (ii) the Office of Regulatory Staff; and

\_\_\_\_\_ (iii) intervenors with standing as approved by the commission.

\_\_\_\_\_ (c) If the commission denies an application made pursuant to this section and the utility continues to build such major utility facility, the utility must allocate all costs and benefits associated with the major utility facility away from the utility's South Carolina customers.

Section 58-33-120. (1) An applicant for a certificate shall file an application with the commission, in such form as the commission may prescribe. The application must contain the following information:

(a) a description of the location and of the major utility facility to be built;

(b) a summary of any studies which have been made by or for applicant of the environmental impact of the facility;

(c) a statement explaining the need for the facility;

and

(d) any other information as the applicant may consider relevant or as the commission may by regulation ~~or order~~ require. A copy of the study referred to in item (b) above shall be filed with the commission, if ordered, and shall be available for public information.

(2) Each application shall be accompanied by proof of service of a copy of the application on the Office of Regulatory Staff, the chief executive officer of each municipality, and the head of each state and local government agency, charged with the duty of protecting

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the environment or of planning land use, in the area in the county in which any portion of the facility is to be located. The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(3) Each application also must be accompanied by proof that public notice was given to persons residing in the municipalities entitled to receive notice under subsection (2) of this section, by the publication of a summary of the application, and the date on or about which it is to be filed, in newspapers of general circulation as will serve substantially to inform such persons of the application.

(4) Inadvertent failure of service on, or notice to, any of the municipalities, government agencies, or persons identified in subsections (2) and (3) of this section may be cured pursuant to orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies thereof, or both, upon such other persons, and file proof thereof, as the commission may deem appropriate.

(5) An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe. Notice of the application shall be given as set forth in subsections (2) and (3) of this section.

Section 58-33-130. (1) Upon the receipt of an application complying with Section 58-33-120, 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~~ complete the hearing and issue an order on the merits within one hundred eighty days of receipt of the application.

(2) The testimony presented at the hearing may be presented in writing or orally, - provided that the Commission may make rules designed to exclude repetitive, redundant or irrelevant testimony; however, all expert testimony must be prefiled with the Commission, with responsive expert testimony of non-applicants being received with enough time for the applicant to meaningfully respond, and in no case would expert testimony be filed less than twenty days before the hearing.

~~(2)~~(3) On an application for an amendment of a certificate, the Commission shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any significant increase in any environmental impact of the facility or a substantial change in the

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location of all or a portion of the facility; provided, that the Public Service Commission shall forward a copy of the application to all parties upon the filing of an application.

Section 58-33-140. (1) The parties to a certification proceeding shall include:

(a) the applicant;

(b) the Office of Regulatory Staff, the Department of Health and Environmental Control, the Department of Natural Resources, and the Department of Parks, Recreation and Tourism;

(c) each municipality and government agency entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120 if it has filed with the commission a notice of intervention as a party within thirty days after the date it was served with a copy of the application; and

(d) any person residing in a municipality entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120, any domestic nonprofit organization, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interest, to represent commercial and industrial groups, or to promote the orderly development of the area in which the facility is to be located; or any other person, if such a person or organization has petitioned the commission for leave to intervene as a party, within thirty days after the date given in the published notice as the date for filing the application, and if the petition has been granted by the commission for good cause shown.

(2) Any person may make a limited appearance in the sixty days after the date given in the published notice as the date for filing the application. No person making a limited appearance shall be a party or shall have the right to present oral testimony or argument or cross-examine witnesses.

(3) The commission may, in extraordinary circumstances for good cause shown, and giving consideration to the need for timely start of construction of the facility, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency, person, or organization which is identified in paragraphs (b) or (c) of subsection (1) of this section, but which failed to file a timely notice of intervention or petition for leave to intervene, as the case may be.

Section 58-33-150. A record shall be made of ~~the~~any hearing and of all testimony taken and the cross-examination thereon.



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~~Upon request of a party, either before or after the decision, a State agency which proposed to or does require a condition to be included in the certificate as provided for in Section 58-33-160 shall furnish for the record all factual findings, documents, studies, rules, regulations, standards, or other documentation, supporting the condition. The Commission may provide for the consolidation of the representation of parties having similar interests.~~

Section 58-33-160. (1) 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 of the construction, operation or maintenance of the major utility facility as the Commission may deem appropriate; such conditions shall be as determined by the applicable State agency having jurisdiction or authority under statutes, rules, regulations or standards promulgated thereunder, and the conditions shall become a part of the certificate. The Commission ~~may not~~must grant a certificate for the construction, operation and maintenance of a major utility facility, either as proposed or as modified by the Commission, ~~unless it shall find and determine if it finds and determines that the applicant has shown:~~

- (a) The basis of the need for the facility.
- (b) The nature of the probable environmental impact.
- (c) That the impact of the facility upon the

environment is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

(d) That the facilities will serve the interests of system economy and reliability, and in the case of generating facilities, will do so considering reasonably available alternatives and their associated costs, risks, and operating attributes.

(e) That there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations issued thereunder, including any allowable variance provisions therein, except that the Commission may refuse to apply any local law or local regulation if it finds that, as applied to the proposed facility, such law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

(f) That public convenience and necessity require the construction of the facility.

(2) If the Commission determines that the location of

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all or a part of the proposed facility should be modified, it may condition its certificate upon such modification, provided that the municipalities and persons residing therein affected by the modification shall have been given reasonable notice.

(3) A copy of the decision and any ~~opinion order~~ shall be served by the Commission upon each party.

Section 58-33-170. In rendering a decision on an application for a certificate, the Commission shall issue an ~~opinion order~~ stating its reasons for the action taken. If the Commission has found that any regional or local law or regulation, which would be otherwise applicable, is unreasonably restrictive pursuant to paragraph (e) of subsection (1) of Section 58-33-160, it shall state in its ~~opinion order~~ the reasons therefor.

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

(b)(2) 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)(B) Available long-term power supply alternatives may include, but are 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)(C) The commission shall consider any previous analysis performed pursuant to 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

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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)(D)~~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) The Public Service Authority may not ~~enter into a contract for the acquisition of~~ acquire a major utility facility 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.

(B)(1) In acting upon any petition by the Public Service Authority pursuant to this section, the Public Service Authority must prove by a preponderance of the evidence that the proposed transaction constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives. The commission shall consider any previous analysis performed pursuant to 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 be 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.

(C) 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

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information as may be required by the commission.

(D) 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.

(E) 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.

(F)(1) 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.

(2) The commission also may require compliance with any provision of Article 3, Chapter 33, Title 58 that the commission determines necessary to grant approval.

Section 58-33-190. (1) The Public Service Authority may not enter into a contract for the purchase of power with a duration longer than ten 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. This section does not apply to purchases of renewable power through a commission approved competitive procurement process.

(2) The commission shall consider any previous analysis performed pursuant to 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.

(3) The commission may not grant approval unless it shall find and determine that the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority.

SECTION 25. Section 58-37-40 of the S.C. Code is amended to read:

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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 with one hundred thousand or more customer accounts and the Public Service Authority 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, electric utilities with less than one hundred thousand customer accounts, 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, electric utility with less than one hundred thousand customer accounts, 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. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy-five percent renewable energy or because it purchases wholesale load balancing generation services, then 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:

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(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 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 commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 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

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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.

(c) The Authority's integrated resource plan must provide the information required in Section 58-37-40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, 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, including Central Electric Power Cooperative, 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 of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal by the year 2050.

(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

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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; ~~and~~

(j) a report addressing updates to the utility's transmission plan under the utility's open-access transmission tariff pursuant to the federal jurisdiction planning process. In this report, the utility shall describe if applicable planned transmission improvements may enable specific siting of new resources or provide expected and planned impacts to other resource interconnection constraints or operations of the systems. The utility shall also describe how it evaluated alternate transmission technologies when developing solutions for identified transmission needs for interconnecting resources.

(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 subject to subsection (A)(1) 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 procedural schedule shall include dates for completion of each phase of discovery, including discovery related to the integrated resource plan as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and



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intervenors, and rebuttal testimony of the applicant. Except upon showing exceptional circumstances, all discovery shall be served in time to allow its completion, but not less than ten days prior to the hearing. 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 the 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 or the Public Service Authority'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.~~ In reviewing an integrated resource plan, the commission shall give due consideration as to the resources and actions necessary for the utility to fulfill compliance and reliability obligations pursuant to the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, the Southeastern Electric Reliability Council, and the Nuclear Regulatory Commission requirements, as well as environmental requirements applicable to resources serving customers in this state. Matters related to the scope and sufficiency of an electrical utility's demand-side plans and activities shall be considered exclusively in proceedings conducted pursuant to Section 58-37-20. In reviewing an integrated resource plan, the commission shall focus its review on the decisions which the applicant must make in the near term based on the triennial integrated resource plan under consideration at the time and shall approve a plan if it finds that the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, including the need for electric capacity and energy required to support economic development and industry retention in the electrical utility's or the Public Service Authority's service territory and to meet applicable planning reserve margins;

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(b) consumer affordability and least reasonable cost, considering the resources needed to support economic development and industry retention, and other risks and benefits;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply; ~~and~~

(g) the efficiencies and optimum plans for any electrical utility system spanning state lines located within the electrical utility's or the Public Service Authority's balancing authority area; and

(h) other foreseeable conditions that the commission determines to be for the public's interest.

(3) In modifying or rejecting an electrical utility's or the Public Service Authority's integrated resource plan, the commission shall only require revisions that are reasonably anticipated to materially change resource procurement decisions to be made on the basis of the integrated resource plan under review. If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the 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 the Public Service Authority's revised filing, the Office of Regulatory Staff shall review the electrical utility's or the 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. An 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.

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(D)(1) An electrical utility and the Public Service Authority shall each submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility's or the 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 electrical utility's or the Public Service Authority's annual update and submit a report within ninety days 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 the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest within sixty days from the submittal of the Office of Regulatory Staff's report.

(E) Intervenors shall bear their own costs of participating in proceedings before the commission.

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

SECTION 26. Section 58-3-260 of the S.C. Code is amended to read:

Section 58-3-260. (A) For purposes of this section:

(1) "Proceeding" means a contested case, generic proceeding, or other matter to be adjudicated, decided, or arbitrated by the commission.

(2) "Person" means a party to a proceeding pending before the commission, a member of the Office of Regulatory Staff, a representative of a party to a proceeding pending before the commission, individuals, corporations, partnerships, limited liability companies, elected officials of state government, and other public and elected officials.

(3) "Communication" means the transmitting of information by any mode including, but not limited to, oral, written, or electronic.

(4) "Allowable ex parte communication briefing"

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means any communication that is conducted pursuant to the procedure outlined in subsection (C)(6) of this section.

(5) “Communication of supplemental legal citation” means the submission, subsequent to the submission of post-hearing briefs or proposed orders in a proceeding, of statutes, regulations, judicial or administrative decisions that are enacted, promulgated, or determined after the submission of post-hearing briefs or proposed orders.

(6) “Issue” means a specific request for relief or for other action from the commission in a pending or anticipated matter, legal or regulatory arguments, and policy considerations. “Issue” does not include:

(a) general information concerning the operations, administration, planning, projects, customer service, storms or storm response, accidents, outages, or investments of an entity regulated by the commission that is not confidential and proprietary and is available to the public; or

(b) any confidential information that affects energy security, such as physical or cybersecurity matters, provided that such information is also provided to the Executive Director of the Office of Regulatory Staff.

Any communication pursuant to subitems (a) or (b) that does not contain a specific request for relief or for other action from the commission in a pending matter or anticipated matter and is provided to the commission must be in writing and must be posted on the commission’s website with any confidential information redacted.

(B)(1) Except as otherwise provided herein or unless required for the disposition of ex parte matters specifically authorized by law, a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication.

(2) Commissioners must limit their consideration of matters before them to the record presented by the parties and may not rely on material not presented in the record by the parties.

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(C) The following communications are exempt from the prohibitions of subsection (B) of this section:

(1) a communication concerning compliance with procedural requirements if the procedural matter is not an area of controversy in a proceeding;

(2) statements made by a commission employee who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding, where the statements are limited to providing publicly available information about pending proceedings;

(3) inquiries relating solely to the status of a proceeding, unless the inquiry: (a) states or implies a view as to the merits or outcome of the proceeding; (b) states or implies a preference for a particular party or which states why timing is important to a particular party; (c) indicates a view as to the date by which a proceeding should be resolved; or (d) is otherwise intended to address the merits or outcome or to influence the timing of a proceeding;

(4) a communication made by or to commission employees that concerns judicial review of a matter that has been decided by the commission and is no longer within the commission's jurisdiction; however, if the matter is remanded to the commission for further action, the provisions of this section shall apply during the period of the remand;

(5) where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized provided:

(a) the commissioner, hearing officer, or commission employee reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(b) the commissioner, hearing officer, or commission employee makes provision promptly to notify all other parties of the substance of the ex parte communication and, where possible, allows an opportunity to respond;

(6)(a) subject to the provisions of Chapter 4 of Title 30, communications, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding for the purposes of an allowable ex parte communication briefing if:

~~\_\_\_\_\_ (i) the Executive Director of the Office of Regulatory Staff or his designee attends the briefing and files a written~~

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~~certification, within seventy two hours of the briefing, attaching copies of all statements and all other matters filed by all persons pursuant to subsubitems (ii), (iii), and (iv) of this subsection, with the chief clerk of the commission that such briefing was conducted in compliance with the provisions of this section and that each party, person, commissioner, or commission employee present has complied with the reporting and certification requirements of subsubitems (ii), (iii), and (iv); and within twenty four hours of the submission by the executive director, the commission posts on its web site the written certification, statements, and other matters filed by the executive director;~~

~~(ii) each party, person, commissioner, and commission employee present files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty eight hours of the briefing accurately summarizing the discussions in full and attaching copies of any written materials utilized, referenced, or distributed;~~

~~(iii) each party, person, commissioner, and commission employee present, within forty eight hours of the briefing, files a certification with the Executive Director of the Office of Regulatory Staff that~~

~~(i) in the course of such briefing, no commissioner or commission employee shall make any~~ne~~ commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding, was requested by any person or party nor shall any person request any commitment, predetermination, or prediction ~~wasto~~ be given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue;~~

~~(ii) the Executive Director of the Office of Regulatory Staff or his designee must attend the briefing and certify that the commissioners and commission employees complied with the provisions in subitem (i);~~

~~(iv)(iii) each commissioner or commission employee present at the allowable ex parte communication briefing grants to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can~~

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reasonably be expected to become an issue in a proceeding under the provisions of subsection (C)(6) of this section and files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing stating that the commissioner or commission employee will comply with this provision;

~~(v)(iv)~~ the commission ~~posts~~ must post on its web site, at least five business days prior to the proposed briefing, a notice of each request for an allowable ex parte communication briefing that includes the date and time of the proposed briefing, the name of the person or party who requested the briefing, the name of each commissioner and commission employee whom the person or party has requested to brief, and the subject matter to be discussed at the briefing;

(v) the commission must post on its web site within three business days after the briefing, all nonconfidential materials and documents provided to the commission as part of the ex parte briefing and a statement signed by the chief clerk of the commission that the provisions of this subsection have been followed, including the justification for actions taken to preserve the confidentiality of any confidential information provided to the commission;

(vi) the person or party initially seeking the briefing ~~requests~~ must request the briefing with sufficient notice, as required in subsubitem ~~(v)(iv)~~, to allow the initial briefing to be held at least twenty business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and the initial briefing must be held at least twenty business days prior to the hearing in the proceeding; and

(vii) any person or party desiring to have a briefing on the same or similar matter as provided for in subsubitem (vi) shall be entitled to request ~~requests~~ a briefing so long as the request is made with sufficient time for notice, as required in subsubitem ~~(v)(iv)~~, to allow the briefing to be held at least ten business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and any such briefing must be held at least ten business days prior to the hearing in the proceeding;

~~(b) any person or party may object to the attendance of the Executive Director of the Office of Regulatory Staff at an allowable ex parte communication briefing on the grounds of bias or a conflict of interest on the part of the executive director. Any such objection must be made in writing and must be filed with the executive~~

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director no later than twenty-four hours prior to the scheduled briefing. If the objecting person or party and the executive director agree upon a neutral person, that person shall serve in the executive director's stead and shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings. If the objecting person or party and the executive director cannot agree upon a neutral person, the objecting person or party shall petition the Administrative Law Court for the appointment of a neutral person to serve in the executive director's stead, and the petition shall be given priority over all other matters within the jurisdiction of the Administrative Law Court. In the petition, the objecting party shall set forth the specific grounds supporting the objecting person's or party's allegation of bias or conflict on the part of the executive director and shall generally describe the matters to be discussed at the briefing. It shall not be sufficient grounds that the executive director is or is likely to be a party to a proceeding. The executive director shall be given an opportunity to respond. Part of the executive director's response shall include recommendations as to the experience required of the person to act in his stead. Upon a showing of actual bias or conflict of interest, the administrative law judge shall designate a person to act in the executive director's stead and that person shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). Such person must have the expertise to act in the executive director's stead. The decision of the administrative law judge shall be considered interlocutory and not immediately appealable and may be appealed with the final order of the commission. The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings;

\_\_\_\_\_ (c) should the Executive Director of the Office of Regulatory Staff desire to conduct an allowable ex parte communication briefing, the chief clerk of the commission shall appoint a neutral person who shall serve in the executive director's stead and that person shall comply with the reporting and certification requirements of the Executive Director of the Office of Regulatory Staff contained in subsubitem (i). The Executive Director of the Office of Regulatory Staff shall comply with the requirements contained in subsubitems (ii) and



~~(iii);~~

\_\_\_\_\_ ~~(d)(b)~~ nothing in subsection (C)(6) of this section requires any commissioner or commission employee to grant a request for an allowable ex parte communication briefing, except as provided in subsection (C)(6)(a) ~~(iv)~~ (iii) of this section;

(7) a communication of supplemental legal citation if the party files copies of such documents, without comment or argument, with the chief clerk of the commission and simultaneously provides copies to all parties of record;

(8) subject to the provisions of Chapter 4 of Title 30, communications between and among commissioners regarding matters pending before the commission; provided, further, that any commissioner, hearing officer, or commission employee may receive aid from commission employees if the commission employees providing aid do not:

(a) receive ex parte communications of a type that the commissioner, hearing officer, or commission employee would be prohibited from receiving; or

(b) furnish, augment, diminish, or modify the evidence in the record.

(D) If before serving in a proceeding, a commissioner, hearing officer, or commission employee receives an ex parte communication of a type that may not properly be received while serving, the commissioner, hearing officer, or commission employee must disclose the communication in the following manner: a commissioner, hearing officer, or a commission employee who receives an ex parte communication in violation of this section must promptly after receipt of the communication or, in the case of a communication prior to a filing, as soon as it is known to relate to a filing, place on the record of the matter all written and electronic communications received, all written and electronic responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner, hearing officer, or commission employee, as appropriate, received an ex parte communication and must advise all parties that these matters have been placed on the record. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. Parties affected by a violation may agree to a resolution of any claim regarding such violation, including the waiver of a hearing and the waiver of the obligation to report violations

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under subsection (I) of this section.

(E) Any person who makes an inadvertent ex parte communication must, as soon as it is known to relate to an issue in a proceeding, disclose the communication by placing on the record of the matter the communication made, if written or electronic, or a memorandum stating the substance of an inadvertent oral communication, and the identity of each person to whom the inadvertent ex parte communication was made or given. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. If no party rebuts the inadvertence of the ex parte communication within ten days after notice of the ex parte communication, the ex parte communication shall be presumed inadvertent. Parties affected by a violation may agree to a resolution of any claim regarding such violation, and the provisions of subsection (J) of this section shall not apply.

(F) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a commissioner, hearing officer, or commission employee who receives the communication may be disqualified by the commission, and the portions of the record pertaining to the communication may be sealed by protective order.

(G) Nothing in this section alters or amends Section 1-23-320(i).

(H) Nothing in this section prevents a commissioner, hearing officer, or commission employee from:

\_\_\_\_\_ (1) attending educational seminars sponsored by state, regional, or national organizations and seminars not affiliated with any utility regulated by the commission; however, the provisions of this section shall apply to any communications that take place outside any formal sessions of any seminars or group presentations; or

\_\_\_\_\_ (2) conducting a site visit of a utility facility under construction or attending educational tours of utility plants or other facilities provided:

\_\_\_\_\_ (a) the Executive Director of the Office of Regulatory Staff or his designee also attends the site visit or educational tour;

\_\_\_\_\_ (b) a summary of the discussion is produced and posted on the commission's website, along with copies of any written materials utilized, referenced, or distributed; and

\_\_\_\_\_ (c) each party, person, commission, and

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commission employee who participated in the site visit or educational tour, within forty-eight hours of the site visit or educational tour, files a certification with the Executive Director of the Office of Regulatory Staff that no commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party, nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue.

(I) Subject to any privilege under Rule 501 of the South Carolina Rules of Evidence, any commissioner, hearing officer, commission employee, party, or any other person must report any wilful violation of this section on the part of a commissioner, hearing officer, or commission employee to the review committee.

(J) Any commissioner, hearing officer, commission employee, or person who wilfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars or imprisoned for not more than six months. If a commissioner wilfully communicates with any party or person or if any person or party wilfully communicates with a commissioner regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten business days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the commissioner shall be removed from office. If a hearing officer or commission employee wilfully communicates with any party or person or any party or person wilfully communicates with a hearing officer or commission employee regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the hearing officer or commission employee shall be terminated from employment by the commission. For purposes of this section: (1) "wilful" means an act done voluntarily and intentionally with the specific intent to do something the law forbids, or with specific intent to fail to do something

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the law requires to be done, that is to say with bad purpose either to disobey or disregard the law, and (2) a violation of the provisions of this section must be proved by clear and convincing evidence before a commissioner, hearing officer, or commission employee can be removed from office or terminated from employment.

SECTION 27. Section 58-3-270(E) of the S.C. Code is amended to read:

(E) The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court may issue an order tolling any deadlines imposed by any state statute for a decision by the commission on the proceeding that is the subject of the ex parte communication complaint but only to the extent that the allegations of the complaint are verified and if found to be true would indicate that the proceeding was prejudiced to the extent that the commission is unable to consider the matter in the proceeding impartially. The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court must conduct a hearing and must issue a decision within sixty days after the complaint is filed.

SECTION 28. The General Assembly hereby finds and declares that:

(1) the economic and financial well-being of South Carolina and its citizens depends upon continued economic development and industry retention and opportunities for job attraction and retention; and

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

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

(4) electrical utilities are critical economic development and industry retention partners for South Carolina by offering affordable power that has helped to attract jobs and associated development.

Title 58 of the S.C. Code is amended by adding:

CHAPTER 43

Economic Development Rates

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Section 58-43-10. Unless otherwise specified, for purposes of this chapter:

(1) “Commission” means the Public Service Commission.

(2) “Contract” has the same meaning as the term is used in Section 58-27-980.

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

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

(5) “Qualifying customer” means either:

(a) an existing commercial or industrial customer with a combined firm and interruptible contract demand greater than 20 megawatts that agrees to a new or extended electric service contract with a term of five years or more; or

(b) a commercial or industrial customer that agrees to locate its operations in South Carolina or expands its existing establishment, and such location or expansion results in the minimum of:

(i) 500 kilowatts at one point of delivery;

(ii) fifty new employees; and

(iii) capital investment for \$400,000 following the electrical utility’s approval for service.

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

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

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

(a) 50 megawatts at one point of delivery;

(b) 500 new employees;

(c) capital investment of \$100,000,000 following the electrical utility’s approval for service; and

(d) who is designated by the South Carolina Department of Commerce as a business which will bring substantial benefit to the economy of South Carolina and its citizens, such that it is in the public interest to have such transformational customer located in this State.

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Section 58-43-20. (A) When considering whether the rates, terms, and conditions negotiated with economic development prospects are just and reasonable, the commission shall give full weight and consideration to the economic development benefits to the electrical utility's customers that result from prospective commercial or industrial entities locating or expanding their activities in South Carolina.

(B) Notwithstanding any other provision of law, an electrical utility may provide the South Carolina Department of Commerce or a prospective qualifying customer or transformational customer with a rate proposal containing terms and conditions to incentivize the prospective customer to make capital investments and employ additional workforce in the electrical utility's service territory. The rate proposal initially provided by an electrical utility may differ from the final contract, rate, terms, and conditions with the qualifying customer or transformational customer.

(C) An electrical utility may offer special rates, terms, and conditions to a qualifying customer or transformational customer, including rates that are lower than the rates that the customer otherwise would be charged. The agreement with the customer must be for a term not exceeding ten years and the electrical utility may offer the customer interruptible and real-time pricing options and riders for other clean energy attributes which may support the qualifying customer's or transformational customer's needs. However, rates for qualifying customers may not be lower than the electrical utility's marginal cost of providing service to the customer and rates for transformational customers may not be lower than twenty-five percent less than the electrical utility's marginal cost of providing service to the customer.

(D) Rates, terms, and conditions negotiated with qualifying and transformational customers shall be deemed just and reasonable if:

- (1) for qualifying customers, the terms of this section are met;
- (2) for transformational customers, the commission determines

that:

(a) the economic development rate offered significantly impacts the customer's decision to locate or expand in South Carolina;

(b) the financial value realized by the electrical utility's system from the transformational customer being on the electrical utility's system for ten years is greater than or equal to the financial value of the rate incentive given to the transformational customer;

(c) measures have been taken to avoid or reduce cross-customer class subsidization; and

(d) the consequences of offering the economic development

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rate are beneficial to the system as a whole considering all customer classes.

The commission must either approve or deny an application pursuant to this section within sixty days.

(E) Nothing in this chapter shall otherwise restrict the commission's authority to regulate rates and charges or review contracts entered into pursuant to this section or to otherwise supervise the operations of electrical utilities.

(F) The construction of a proposed renewable energy facility by or on behalf of a qualifying customer to support electric power generation at its location must comply with federal, state, and local laws and ordinances.

(G) Consistent with federal, state, and local laws and ordinances, the electrical utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying or transformational customer to support electrical power generation at its location where high-quality and reliable electric service are not adversely impacted.

(H) In the event a qualifying customer or transformational customer leaves this State or terminates its operations in this State during the ten-year contract period, such customer must reimburse the electrical utility and its customers the difference between standard rates and the rates paid during the term of the agreement between the electrical utility and its customers.

(I) For facilities designated as high priority sites by the South Carolina Department of Commerce, an electrical utility may enter into agreements to provide energy infrastructure to such sites if the South Carolina Department of Commerce determines it will increase the probability of attracting transformational customers to this State. Costs of such infrastructure shall be accounted for and recorded as an element of rate base for inclusion in general rates by the electrical utility provided the commission finds such costs are reasonable and prudent and shall not include a rate of return until the facilities are placed into service for a customer.

(J) An electrical utility shall not be required to adjust its cost of service in a rate proceeding as a result of a rate, agreement, or infrastructure provided pursuant to this section in any matter that would impute revenue at a level higher than received by the electrical utility from a qualifying customer or transformational customer or would otherwise reduce the electrical utility's revenue as a result of entering into contracts with qualifying customers or transformational customers

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pursuant to this section.

(K) If an electrical utility offers special rates, terms, and conditions to a qualifying customer or a transformational customer, any electrical utility in South Carolina may also offer all directly competing existing customers in its service territory in this State with similar special rates, terms, and conditions at the time the agreement is entered into with the qualifying customer or transformational customer to the extent the directly competing existing customer is able to substantiate its status as a directly competing existing customer. For purposes of this section, customers are “directly competing” if they make the same end-product, or offer the same service, for the same general group of customers. Customers that only produce component parts of the same end-product are not directly competing customers.

SECTION 29. Sections 58-33-310 and 58-33-320 of the S.C. Code are amended to read:

Section 58-33-310. Any party may appeal, in accordance with Section 1-23-380, from all or any portion of any final order or decision of the commission, including conditions of the certificate required by a state agency under Section 58-33-160 as provided by Section 58-27-2310. ~~Any appeals may be called up for trial out of their order by either party.~~ Any final order on the merits issued pursuant to this chapter shall be immediately appealable to the Supreme Court of South Carolina, without petition for rehearing or reconsideration. The Supreme Court shall provide for expedited briefing and hearing of the appeal in preference to all other nonemergency matters. The commission must not be a party to an appeal.

Section 58-33-320. Except as expressly set forth in Section 58-33-310, no court of this State shall have jurisdiction to hear or determine any issue, case, or controversy concerning any matter which was or could have been determined in a proceeding before the commission under this chapter or to stop or delay the construction, operation, or maintenance of a major utility facility, except to enforce compliance with this chapter or the provisions of a certificate issued hereunder, and any such action shall be brought only by the Office of Regulatory Staff. Provided, however, that subject to Section 58-33-175, nothing herein contained shall be construed to abrogate or suspend the right of any individual or corporation not a party to maintain any action which he might otherwise have been entitled.

SECTION 30. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-160. (A)(1) The Office of Regulatory Staff must



conduct a study to evaluate the potential costs and benefits of the various administrator models for energy efficiency programs and other demand-side management programs funded by, or potentially funded by, electrical utilities in this State. This study must be conducted on each electrical utility in this State. For purposes of this section, administrator models for energy efficiency programs shall include the following models: utility administrator, state or government agency administrator, an independent third-party administrator, and a hybrid administrator.

(2) For purposes of this section only, “electrical utility” means an investor-owned electrical utility that serves more than 100,000 customers in this State.

(B) This study must consider which administrator model would most meaningfully improve programs offered by the electrical utility.

(C) The study must also evaluate which administrator model offers the best opportunities to increase cost and energy savings, improve the quality of services rendered, reduce ratepayer costs, or more effectively serve low-income customers, within a program portfolio that is cost effective overall, as compared to similar program administration by individual electrical utilities, or to increase the cost effectiveness of energy efficiency program portfolios. This study must consider, but is not limited to, the following:

(1) whether third-party administration subject to a pay for performance contract and independent third-party evaluation, measurement, and verification could reduce administrative costs, as compared to separate administration of energy efficiency programs by individual electrical utilities;

(2) whether a system benefit charge or other funding or financing mechanism would more efficiently, effectively, and fairly fund energy efficiency and other demand side management programs through an administrator;

(3) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced lower historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(4) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced high historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(5) the legal and practical implications of implementing the various administrator models for an electrical utility with a multistate balancing authority area;

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(6) which administrator model could most enhance an electrical utility's delivery of nonenergy benefits, such as resiliency, reliability, health, economic development, industry retention, energy security, and pollution reduction; and

(7) which administrator model could most effectively pursue nonratepayer funding including, but not limited to, federal, state, or local governmental support, as a means of either reducing reliance of ratepayer funds or increasing the scope, reach, or effectiveness of energy efficiency and demand side management programs.

(D) This study must be conducted with public input from stakeholders through written comments and at least one public forum.

(E) The Office of Regulatory Staff is authorized to retain the services of an expert or consultant with expertise and experience in the successful implementation of energy efficiency administrator programs. The Office of Regulatory Staff is exempt from the procurement code for the purposes of retaining services for this study.

(F) The provisions of this section are subject to funding. However, the Office of Regulatory Staff must initiate the study within one year from receipt of necessary funding and complete its report within six months. Upon completion of this study, the Office of Regulatory Staff must provide its report to the General Assembly and the commission. This report may include a recommendation as to which administrator model should be established for each electrical utility, draft legislation, and requirements that should be established.

SECTION 31. Section 58-37-10 of the S.C. Code is amended to read:

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

(1) “Demand-side activity” or “demand-side management program” 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, through measures, 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

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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 requirements pursuant to Section 58-37-40 and any process adopted by the commission. For electric cooperatives subject to the regulations of the Rural ~~Electrification Administration~~Utilities Service, this definition must be interpreted in a manner consistent with any integrated resource planning process prescribed by Rural ~~Electrification Administration~~Utilities Service regulations.

(3) "Cost-effective" means that the net present value of benefits of a program or portfolio exceeds the net present value of the costs of the program or portfolio. A cost-effective program or portfolio must pass any two of the following tests:

- (a) utility cost test;
- (b) total resource cost test;
- (c) participant cost test; or
- (d) ratepayer impact measure test.

In evaluating the cost-effectiveness of a program or portfolio, a utility or program administrator must present the results of all four tests. In calculating cost-effectiveness, a utility must use a standard utility practice for determining the percentage of energy savings that would or would not have been achieved through customer adoption of an efficiency behavior or technology without any incentive allowed pursuant to this chapter to install and utilize the technology as part of the associated demand-side management program. The utility must designate the expected useful life of the measure and evaluate the costs and benefits of the measures over their useful lives in the program application based on industry-accepted standards. Further, in calculating the cost-effectiveness, the commission must consider the efficiencies and scale of programs that are or may be available across a utility's balancing area, even if that balancing area extends outside of the state.

(4) "Demand-side management pilot program" means a demand-side management program that is of limited scope, cost, and duration and that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

SECTION 32. Section 58-37-20 of the S.C. Code is amended to read:

Section 58-37-20. (A) The General Assembly declares that expanding utility investment in and customer access to

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cost-effective demand-side management programs will result in more efficient use of existing resources, promote lower energy costs, mitigate the increasing need for new generation and associated resources, and assist customers in managing their electricity usage to better control their electric bill, and is therefore in the public interest.

(B) The commission may approve any program filed by a public utility if the program is found to be cost-effective. Furthermore, the commission may, in its discretion, approve any program filed by a public utility that is not cost-effective, so long as the proposed demand-side management program is targeted to low-income customers, provided that the public utility's portfolio of demand-side management programs is cost-effective as a whole.

(C) The South Carolina Public Service Commission may must adopt procedures that encourage require electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to plan for and invest in all reasonable, prudent, and available energy efficiency and demand-side resources that are cost-effective energy efficient technologies and energy conservation programs in an amount to be determined by the commission. If an electrical utility fails to meet the requirements of this section as determined by the commission, the commission is authorized to appoint a third-party administrator to carry out the residential low-income energy efficiency duties pursuant to this section on behalf of the electrical utility if the commission determines that having such a third-party administrator is in the public interest and consistent with law. Upon notice and hearings that the commission may require, the commission may issue rules, regulations, or orders pursuant to this chapter to implement applicable programs and measures under this section. 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 system or local coincident peak 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

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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.~~

(D) Each investor-owned electrical utility must submit an annual report to the commission describing the demand-side management programs implemented by the electrical utility in the previous year, provided the program has been operational for a reasonable period of time, as well as the results of such programs. The commission may require certain information including, but not limited to:

(1) achieved savings levels from the utility’s portfolio of programs in the prior year, reported as a percentage of the utility’s annual sales;

(2) program expenditures, including incentive payments;

(3) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(4) avoided costs and the techniques used to estimate those costs;

(5) estimated cost-effectiveness of the demand-side management programs;

(6) a description of economic benefits of the demand-side management programs;

(7) the number of customers eligible to opt-out of the electrical utility’s demand-side management programs, the percentage of those customers that opted-out in the previous year, and the annual sales associated with those opt-out customers; and

(8) any other information required by the commission.

(E) To ensure prudent investments by an electrical utility in energy efficiency and demand response, as compared to potential investments in generation, transmission, distribution, and other supply related utility equipment and resources, the commission must review each investor-owned electrical utility’s portfolio of demand-side management programs on at least a triennial basis to align the review of that utility’s integrated resource plan pursuant to Section 58-37-40. The commission is authorized to order modifications to an electrical utility’s

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demand-side management portfolio, including program budgets, if the commission determines that doing so in the public interest.

(F) The provisions of subsections (C), (D), and (E) do not apply to an electrical utility that serves less than 100,000 customers in this State.

SECTION 33. Section 58-37-30 of the S.C. Code is amended to read:

Section 58-37-30. (A) The South Carolina Public Service Commission must report annually to the General Assembly on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities, as defined in the Public Utilities Regulatory Policies Act of 1978, by electrical utilities and public utilities providing gas services subject to the jurisdiction of the Public Service Commission.

(B) Electric cooperatives providing resale or retail services, municipally-owned electric utilities, and the South Carolina Public Service Authority shall report annually to the State Energy Office on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities. For electric cooperatives, submission to the State Energy Office of a report on demand-side ~~activities~~management programs in a format complying with then current Rural ~~Electrification Administration~~Utilities Service regulations constitutes compliance with this subsection. An electric cooperative providing resale services may submit a report in conjunction with and on behalf of any electric cooperative which purchases electric power and energy from it. The State Energy Office must compile and submit this information annually to the General Assembly.

(C) The State Energy Office may provide forms for the reports required by this section to the Public Service Commission and to electric cooperatives, municipally-owned electric utilities, and the South Carolina Public Service Authority. The office shall strive to minimize differing formats for reports, taking into account the reporting requirements of other state and federal agencies. For electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission, the reporting form must be in a format acceptable to the commission.

SECTION 34.31. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-35. (A) An electrical utility may propose programs and customer incentives to encourage or promote demand-side management programs whereby a customer uses a customer-sited

distributed energy resource, as defined in Section 58-39-120(C), or combination of such resources, to: (1) reduce the customer's electric consumption or demand from the electric grid, or (2) beneficially shape the customer's electric consumption or demand in a manner that reduces the customer's contribution to the electrical utility's system or local coincidental peak demand, subject to the associated load to utility management for reliability or economic purposes, or reduce future electrical utility system costs to serve its customers. Programs authorized pursuant to this section may also include distributed energy resources that draw additional power from the electric grid including, but not limited to, electric heat pumps with programmable or utility controlled thermostats, electric heat pump water heaters controlled through utility programs, smart home panels, advanced inverters, and energy storage devices located on the customer's side of the meter, provided that any programs or customer incentives otherwise meet the requirements of this section. These programs may also include a combination of resources, including renewable energy microgrids, to provide economic benefits to the utility system or to help address specific transmission or distribution issues that would otherwise require significant capital investment.

(B) In evaluating a program or customer incentive proposed pursuant to this section to assure reasonableness, promotion of the public interest, and consistency with the objectives of Sections 58-27-845 and 58-37-20, the commission must apply the procedure approved pursuant to Section 58-37-20. An electrical utility must use standard utility practices for determining the percentage of customers that would or would not have adopted a distributed energy resource without any incentive allowed under this section to install and utilize the distributed energy resource as part of the associated demand-side management program. The electrical utility must designate the expected useful life of the distributed energy resource and evaluate the costs and benefits of demand-side measures over their useful lives in the program application based on industry-accepted standards. All initial program costs, benefits, and participation assumptions used in the electrical utility's cost-effectiveness evaluations must be reviewed by the commission to assure the electrical utility has presented a reasonable basis for its calculation. Electrical utilities must update the cost-effectiveness analysis based on the actual program costs, benefits, and participation as soon as practicably possible based on standard evaluation, measurement, and verification protocols, and the electrical utility's cost recovery must be reconciled accordingly.

(C) For demand-side programs or customer incentives proposed in

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this section, the electrical utility may recover costs through the procedures in Section 58-37-20. The prohibition in Section 58-40-20(I) against recovery of lost revenues associated with distributed energy resources pursuant to Chapter 39, Title 58 is inapplicable to recovery of net lost revenues associated with a distributed energy resource that is installed as a result of a demand-side program incentive pursuant to this section or Section 58-37-20.

(D) The commission may approve any program filed pursuant to this section if the commission finds the program to be cost effective pursuant to Section 58-37-10(3). For any demand-side programs or customer incentives submitted under this section with projected annual customer incentive amounts less than five million dollars per year for each of the first two program years, the commission must issue an order as expeditiously as practicable on the written submissions of the electrical utility but may require an evidentiary hearing where novel or complex issues of fact require special review by the commission. Nothing in this section prevents the commission from ordering an electrical utility to modify or terminate a program approved pursuant to this section based on the results of standard evaluation, measurement, and verification protocols.

(E) The Energy Office must develop and publish materials intended to inform and educate the public regarding programs available to a customer pursuant to this section. The Energy Office must maintain a list of approved vendors who are qualified and in good standing to provide services associated with these programs.

SECTION 35. Section 58-37-50 of the S.C. Code is amended to read:

Section 58-37-50. (A) As used in this section:

(1) "Electricity provider" means an electric cooperative, an investor-owned electric utility, the South Carolina Public Service Authority, or a municipality or municipal board or commission of public works that owns and operates an electric utility system.

(2) "Natural gas provider" means an investor-owned natural gas utility or publicly owned natural gas provider.

(3) "Meter conservation charge" means the charge placed on a customer's account by which electricity providers and natural gas providers recover the costs, including financing costs, of energy efficiency and conservation measures.

(4) "Notice of meter conservation charge" means the written notice by which subsequent purchasers or tenants will be given notice that they will be required to pay a meter conservation charge.

(5) "Customer" means a homeowner or tenant



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receiving electricity or natural gas as a retail customer.

(6) “Community action agency” means a nonprofit eleemosynary corporation created pursuant to Chapter 45, Title 43 providing, among other things, weatherization services to a homeowner or tenant.

(B) Electricity providers and natural gas providers may enter into written agreements with customers and landlords of customers for the financing of the purchase price and installation costs of energy efficiency and conservation measures. These agreements may provide that the costs must be recovered by a meter conservation charge on the customer's electricity or natural gas account, provided that the electricity providers and natural gas providers comply with the provisions of this section. A failure to pay the meter conservation charge may be treated by the electricity provider or natural gas provider as a failure to pay the electricity or natural gas account, and the electricity provider or natural gas provider may disconnect electricity or natural gas service for nonpayment of the meter conservation charge, provided the electricity provider or natural gas provider complies with the provisions of Article 25, Chapter 31, Title 5; Article 17, Chapter 11, Title 6; Article 17, Chapter 49, Title 33; Article 11, Chapter 5, Title 58; Article 21, Chapter 27, Title 58; Article 5, Chapter 31, Title 58; and any applicable rules, regulations, or ordinances relating to disconnections.

(C) Any agreement permitted by subsection (B) must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one-year treasury bills as published by the Federal Reserve ~~at the time the agreement is entered~~ on the first business day of the calendar year in which the agreement is entered. An electrical utility entering into such an agreement whose rates are regulated by the commission must fix the interest rate over the term of the agreement to not exceed such utility's weighted average cost of equity and long-term debt as most recently approved by the commission at the time the agreement is entered. Any indebtedness created under the provisions of this section may be paid in full at any time before it is due without penalty.

(D) An electricity provider or natural gas provider may recover the costs, including financing costs, of these measures from its members or customers directly benefiting from the installation of the energy efficiency and conservation measures. Recovery may be through a meter conservation charge to the account of the member or customer

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and any such charge must be shown by a separate line item on the account. A utility entering into such agreement whose rates are regulated by the commission shall recover all reasonable and prudent incremental costs incurred to implement agreements for financing and installing energy-efficiency and conservation measures in base rates. Incremental costs may include, but are not limited to, billing system upgrades, overhead, incremental labor, and all other expenses properly considered to be associated with ensuring the ongoing premise bill savings are realized from offering during the terms of such agreements.

(E) An electricity provider or natural gas provider shall assume no liability for the installation, operation, or maintenance of energy efficiency and conservation measures when the measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of the measures, and no action may be maintained against the electricity provider or natural gas provider relating to the failure of the measures. An electricity provider or natural gas provider shall assume no liability for energy audits performed by third parties and shall provide no warranty relating to any energy audit done by any third party. Nothing in this section may be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy efficiency and conservation measures.

(F) Before entering into an agreement contemplated by this section, the electricity provider or natural gas provider shall cause to be performed an energy audit on the residence considered for the energy efficiency measures. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated. An agreement entered following completion of an energy audit shall specify the measures to be completed and the contractor responsible for completion of the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work. Upon completion of the work, it must be inspected by an energy auditor certified by the Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized

for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be held in escrow by the electricity provider or natural gas provider.

(G) An electricity provider or natural gas provider that enters into an agreement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electricity provider or natural gas provider gives record notice that the residence is subject to the agreement. Notice must be given, at the expense of the filer, by filing a notice of meter conservation charge with the appropriate office for the county in which the residence is located, pursuant to Section 30-5-10. The notice of meter conservation charge does not constitute a lien on the property but is intended to give a purchaser of the residence notice that the residence is subject to a meter conservation charge. Notice is deemed to have been given if a search of the property records of the county discloses the existence of the charge and informs a prospective purchaser: (1) how to ascertain the amount of the charge and the length of time it is expected to remain in effect, and (2) of his obligation to notify a tenant if the purchaser leases the property as provided in subsection (H)(3).

(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in item (3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated

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with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section 27-40-240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one-half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Title 37 of the South Carolina Code of Laws.

(J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing functions under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).

(K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied ~~at before~~ the time the measures are taken. ~~The procedures allowed by this section may not be used with respect to a new residence or a residence under construction.~~ The provisions of this section may not be used to implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment, or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment, unless (1) the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider, or (2) an electric appliance used for home heating is being replaced by an appliance that operates primarily on electricity but which has the capability of also operating on a secondary fuel source.

(L) Electricity providers or natural gas providers may offer their customers other types of financing agreements available by law, instead of the option established in this section, for the types of energy efficiency or conservation measures described in this section.

(M)(1) An electricity provider or natural gas provider must not obtain funding from the following federal programs to provide loans provided by this section:

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(a) 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;

(b) 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.

(2) Nothing in this section changes the exclusive administration of these programs by local community action agencies through the South Carolina Governor's Office of Economic Opportunity pursuant to its authority pursuant to the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(3) Nothing in this subsection prevents a customer or member of an electricity provider or natural gas provider from obtaining services under the Low Income Home Energy Assistance Program or the Weatherization Assistance Program.

SECTION 36. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-215. (A) The Public Service Authority, in consultation with the South Carolina Department of Commerce, shall have the authority to serve as an anchor subscriber of incremental natural gas and pipeline capacity needed in the future by the State to recruit new transformational projects or to assist in the expansion of transformational projects as identified by the South Carolina Department of Commerce.

(B) The Public Service Authority is authorized to act on behalf of the State, to aid natural gas pipeline construction companies and natural gas shippers in obtaining approval for incremental capacity and delivery

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to this State to support economic growth. The Public Service Authority is authorized to demonstrate market support in required filings including, but not limited to, binding precedent agreements, and to make other attestations in furtherance of satisfaction of the application requirements of federal law and regulations. This subsection is subject to available funding.

(C) There is hereby established the “Energy Investment and Economic Development Fund” to be held in an operating account by the Public Service Authority to further the provisions of this section and other energy investment needs. Subject to the approval of the Joint Bond Review Committee, the Energy Investment and Economic Development Fund may be funded by the amount required to be paid to the State pursuant to Section 58-31-110 less the annual costs billed by the Office of Regulatory Staff and the South Carolina Public Service Commission. The South Carolina Department of Commerce shall report, at least once annually and no later than September first, to the Joint Bond Review Committee as to the level and need for funding to advance the provisions of this section. Unless sufficient funding is allocated to the Energy Investment and Economic Development Fund and such action is approved by the Joint Bond Review Committee, the Public Service Authority shall not execute a binding precedent agreement on behalf of the State pursuant to this section. In no event shall the costs associated with serving as an anchor affect the rates and charges for electric or water service for the Public Service Authority’s customers.

(D) The South Carolina Department of Commerce, with input from the Public Service Authority, is authorized to resell natural gas pipeline capacity rights procured pursuant to this section subject to a plan approved by the Joint Bond Review Committee. The proceeds of any sales of natural gas pipeline capacity rights must be deposited in the general fund of the State.

(E) When the Public Service Authority enters into a binding agreement on behalf of the State, the Office of Regulatory Staff, in representing the public interest and in collaboration with the Department of Commerce, is directed to make such filings supporting required federal regulatory approvals.

(F) The provisions of this section do not alter, amend, expand, or reduce, any other authority granted to the Public Service Authority in this chapter to enter into any agreements necessary for the provision of electric service.

SECTION 37.A. Section 58-3-70 of the S.C. Code is amended to read:  
Section 58-3-70. ~~The chairman and members of the~~

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~~commission shall receive annual salaries payable in the same manner as the salaries of other state officers are paid. The commission members shall receive a salary in an amount equal to ninety-seven and one-half percent of the salary fixed for Associate Justices of the Supreme Court.~~ Each commissioner must devote full time to his duties as a commissioner and must not engage in any other employment, business, profession, or vocation during the normal business hours of the commission.

B. This section is effective beginning with the fiscal year immediately following the Public Service Commission election for the reconstituted three-member commission.

SECTION 38. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-50. (A) The General Assembly encourages electrical utilities to explore cost effective, efficient bulk power solutions, particularly during periods of constrained capacity, for non-residential customers with electric loads in excess of 25 megawatts.

(B)(1) An electrical utility may file a proposed agreement regarding co-located resources between the utility and a customer with an electric load in excess of 25 megawatts for the commission's consideration. The proposed agreement must contain at least one of the following requirements:

(a) co-location of electric generation or storage on the customer's property provides bulk system benefits for all customers and benefits for the host customer;

(b) co-location of renewable electric generation resources on the customer's property provides bulk system benefits for all customers and the renewable attributes associated with such generation can be allocated to the host customer;

(c) co-location of electric generation on the customer's property would result in permitting and siting efficiencies to enable electric generation to come online earlier than otherwise could occur; or

(d) co-location of electric generation resources on the customer's property could be utilized as resiliency resources to serve the electric grid in times of need.

(2) In the filing with the commission, the electrical utility must include a description of:

(a) how the resource helps to serve resource needs identified in the electrical utility's most recent integrated resource plan filing;

(b) credit and ratepayer protections included in the agreement;

(c) the contractual terms that preserves the electrical utility's operation of resources; and

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(d) how costs and benefits associated with the agreement would be allocated among the customer who is a party to the agreement and other customers in the electrical utility's balancing area.

(C) The commission must give a proposed agreement filed pursuant to this section expedited consideration. The commission may approve the proposed agreement if the commission finds:

(1) the proposed program was voluntarily agreed upon by the electrical utility and the customer,

(2) the filing meets the requirements of this section; and

(3) the proposed agreement is in the public interest.

(D) For purposes of this section, "co-located" or "co-location" includes electric generation and associated facilities on a customer's site as well as any location where the connection to the electrical utility is in such proximity to the customer's site that enables resilient power supply to support the development of power supply to meet the customer's needs. An agreement regarding co-location may also include potential co-ownership of the electric generation and associated facilities by the electrical utility and the customer.

(E) Notwithstanding opportunities for co-located resources, the General Assembly also encourages electrical utilities to continue to facilitate service to new electric loads in excess of 50 megawatts and to require operational and financial performance requirements for such customers to receive service pursuant to tariffed electrical utility rates or contracts approved by the commission, and to ensure appropriate protections and risk mitigation for the protection of the electrical utility's existing customers. The electrical utility may meet these objectives by: (1) filing form contracts with the commission; (2) tariff offerings or services regulations filed with the commission; or (3) performance and credit policies reviewed by the Office of Regulatory Staff.

SECTION 39. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-15. (A) As of July 1, 2025, there is hereby created within the Office of Regulatory Staff a division that must be separate and apart from all other divisions within the Office of Regulatory Staff and titled the Division of Consumer Advocacy.

(B) The duties, functions, and responsibilities of the Division of Consumer Advocacy in the Department of Consumer Affairs related to appearances before the commission are hereby transferred to the Division of Consumer Advocacy in the Office of Regulatory Staff on July 1, 2025. All appropriations and full-time equivalent positions of the Division of Consumer Advocacy in the Department of Consumer Affairs



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that are devoted solely to advocating on behalf of consumers before the commission shall be transferred to the Office of Regulatory Staff on July 1, 2025.

(C) The Division of Consumer Advocacy shall have the ability to represent residential utility consumers in matters before the commission and appellate courts.

(D) The Division of Consumer Advocacy shall consist of a Residential Utility Consumer Advocate and other personnel as may be necessary in order for the division to represent residential utility consumers in matters before the commission and appellate courts. The Residential Utility Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of eight years practice experience and must be appointed in the same manner as the Executive Director of the Office of Regulatory Staff pursuant to the procedure set forth in Section 58-4-30.

(E) To the extent necessary to carry out its responsibilities, the Division of Consumer Advocacy may hire third-party consultants as the Residential Utility Consumer Advocate may consider necessary to assist the Division of Consumer Advocacy in its participation in proceedings before the commission and appellate courts.

(F) The Division of Consumer Advocacy is exempt from the State Procurement Code in the hiring of third-party consultants. However, the Division of Consumer Advocacy must not hire the same third-party consultant hired by the Office of Regulatory Staff or the commission.

(G) The Office of Regulatory Staff shall provide such administrative support to the Division of Consumer Advocacy as the division may require in the performance of its duties including financial management, human resources management, information technology, procurement services, and logistical support. The Office of Regulatory Staff shall not provide to the Division of Consumer Advocacy, and the Division of Consumer Advocacy shall not require of the Office Regulatory Staff, legal representation, technical, economic, or auditing assistance regarding any matter pending before the Public Service Commission when providing such assistance would create a conflict of interest.

SECTION 40. (A) To foster economic development and future jobs in this State resulting from the supply-chains associated with the same while supporting the significant and growing energy and capacity needs of the State, enhance grid resiliency, and maintain reliability, the General Assembly finds that the State of South Carolina should take steps necessary to encourage the development of a diverse

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mix of long-lead, clean generation resources that may include advanced small modular reactors, biomass as defined in Section 12-63-20(B)(2) of the S.C. Code, hydrogen-capable resources, and the Carolina Long Bay Project, and should preserve the option of efficiency development of such long-lead resources with timely actions to establish or maintain eligibility for or capture available tax or other financial incentives or address operational needs.

(B) For an electrical utility to capture available tax or other financial or operational incentives for South Carolina ratepayers in a timely manner, the commission may find that actions by an electrical utility in pursuit of the directives in Section 58-37-35(A) are in the public interest, provided that the commission determines that such proposed actions are in the public interest and reasonably balance economic development and industry retention benefits, capacity expansion benefits, resource adequacy and diversification, emissions reduction levels, and potential risks, costs, and benefits to ratepayers and otherwise comply with all other legal requirements applicable to the electrical utility's proposed action. For the South Carolina Public Service Authority, the Office of Regulatory Staff and the Public Service Authority's board of directors shall apply the same principles described in this subsection in evaluating and approving actions proposed by the management of the Public Service Authority to achieve the objectives of this section.

SECTION 41. All reasonable and prudent costs incurred by an electrical utility necessary to effectuate this act, that are not precluded from recovery by other provisions of this act and that do not have a recovery mechanism otherwise specified in this act or established by state law, shall be deferred for commission consideration of recovery in any proceeding initiated pursuant to Section 58-27-870, and allowed for recovery if the commission determines the costs are reasonable and prudent.

SECTION 42. An electrical utility, including the Public Service Authority, may not offer a tariff, rider, or rate proposal for a reduced electric rate, nor any other form of incentive that would result in a reduced electric rate to a data center until July 1, 2034. For purposes of this section, "data center" means any facility that primarily contains electronic equipment used to process, store, and transmit digital information which may be (a) a free-standing structure; or (b) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

SECTION 43. Section 58-40-10(F) of the S.C. Code is amended to

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read:

(F) “Renewable energy resource” means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources as defined in Section 12-63-20(B)(2).

SECTION 44. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the regulation of electrical utilities, the provision of electricity, and economic development as clearly enumerated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 45. 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 46. This act takes effect upon approval by the Governor. However, SECTIONS 1, 2, and 3 apply to license renewal cycles ending after 2025.

Re-number sections to conform.

Amend title to conform.

Rep. OTT spoke against the amendment.

**SPEAKER *PRO TEMPORE* IN CHAIR**

Rep. OTT continued speaking.

Rep. PENDARVIS moved to table the amendment.

[HJ]

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Rep. HIOTT demanded the yeas and nays which were taken, resulting as follows:

Yeas 33; Nays 77

Those who voted in the affirmative are:

Alexander	Ballentine	Bamberg
Bauer	Bernstein	Calhoon
Clyburn	Cobb-Hunter	Dillard
Garvin	Gibson	Gilliard
Guffey	Hart	Henderson-Myers
Hosey	Howard	J. L. Johnson
W. Jones	Kilmartin	King
McCabe	McDaniel	Ott
Pedalino	Pendarvis	Rose
Rutherford	Spann-Wilder	Stavrinakis
Thigpen	Wetmore	Wooten

**Total--33**

Those who voted in the negative are:

Anderson	Atkinson	Bailey
Bannister	Beach	Blackwell
Bradley	Brewer	Brittain
Burns	Bustos	Carter
Chapman	Chumley	Collins
Connell	B. J. Cox	B. L. Cox
Crawford	Cromer	Davis
Elliott	Felder	Forrest
Gagnon	Gilliam	Guest
Haddon	Hager	Hardee
Hartnett	Hayes	Hewitt
Hiott	Hixon	Hyde
Jefferson	J. E. Johnson	S. Jones
Jordan	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	Magnuson
May	McCravy	McGinnis
Mitchell	T. Moore	A. M. Morgan
T. A. Morgan	Moss	Murphy
Neese	B. Newton	W. Newton

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O'Neal	Oremus	Pope
Robbins	Sandifer	Schuessler
G. M. Smith	M. M. Smith	Thayer
Trantham	Vaughan	Weeks
West	White	Whitmire
Willis	Yow	

**Total--77**

So, the House refused to table the amendment.

Rep. HART spoke against the amendment.

Rep. J. L. JOHNSON spoke against the amendment.

The question then recurred to the adoption of the amendment.

Rep. COBB-HUNTER demanded the yeas and nays which were taken, resulting as follows:

Yeas 62; Nays 48

Those who voted in the affirmative are:

Bailey	Bannister	Blackwell
Bradley	Brewer	Brittain
Burns	Bustos	Carter
Chapman	Chumley	Collins
Connell	B. J. Cox	B. L. Cox
Crawford	Davis	Elliott
Felder	Forrest	Gagnon
Gilliam	Guest	Haddon
Hager	Hardee	Hewitt
Hiott	Hixon	Hyde
J. E. Johnson	Jordan	Kirby
Landing	Lawson	Leber
Ligon	Long	Lowe
Magnuson	McCrary	McGinnis
Mitchell	T. Moore	Murphy
Neese	B. Newton	W. Newton
Oremus	Pope	Robbins
Sandifer	G. M. Smith	M. M. Smith
Thayer	Vaughan	Weeks

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West	Wheeler	Whitmire
Willis	Yow	

**Total--62**

Those who voted in the negative are:

Alexander	Ballentine	Bamberg
Bauer	Beach	Bernstein
Calhoon	Caskey	Clyburn
Cobb-Hunter	Cromer	Dillard
Garvin	Gibson	Gilliard
Guffey	Harris	Hart
Hartnett	Hayes	Henderson-Myers
Hosey	Howard	Jefferson
J. L. Johnson	S. Jones	W. Jones
Kilmartin	King	May
McCabe	McDaniel	A. M. Morgan
T. A. Morgan	Moss	O'Neal
Ott	Pace	Pendarvis
Rose	Rutherford	Spann-Wilder
Stavrinakis	Taylor	Trantham
Wetmore	Williams	Wooten

**Total--48**

The amendment was then adopted.

Rep. Pace proposed the following Amendment No. 3 to S. 408 (LC-408.PH0019H), which was ruled out of order:

Amend the bill, as and if amended, by adding appropriately numbered SECTIONS to read:

SECTION X.A. Chapter 63, Title 40 of the S.C. Code is amended by adding:

Section 40-63-245. A social worker licensed pursuant to this chapter may use their clinical judgement when providing treatment to a patient with gender dysmorphia. A complaint based on a non-affirmative treatment may not be grounds for disciplinary action by the licensing board pursuant to Section 40-63-110

B. Chapter 75, Title 40 of the S.C. Code is amended by adding:

Section 40-75-226. A professional counselor licensed pursuant to this chapter may use their clinical judgement when providing treatment

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to a patient with gender dysmorphia. A complaint based on a non-affirmative treatment may not be grounds for disciplinary action by the licensing board pursuant to Section 40-75-110.

C. This Section takes effect upon approval by the Governor and applies to license renewal cycles ending after 2025.

Renumber sections to conform.

Amend title to conform.

Rep. PACE explained the amendment.

**POINT OF ORDER**

Rep. STAVRINAKIS raised the Rule 9.3 Point of Order that Amendment No. 3 was not germane to S. 408.

Speaker Pro-Tempore POPE stated that Amendment No. 3 concerned limiting disciplinary actions against social workers and professional counselors while the bill concerned requirements for licensure and training of social workers and professional counselors. He stated that the amendment went beyond the scope of the bill, and he sustained the point of order. The amendment was ruled out of order.

**Motion to appeal Ruling of the Speaker *Pro Tempore* Tabled**

Rep. CROMER appealed the Ruling of the SPEAKER *PRO TEMPORE* and the SPEAKER was called to the Chair to act as Presiding Officer.

Rep. STAVRINAKIS moved to table motion to appeal the ruling of the Speaker *Pro Tempore*.

Rep. STAVRINAKIS demanded the yeas and nays which were taken, resulting as follows:

Yeas 93; Nays 17

Those who voted in the affirmative are:

Alexander	Anderson	Atkinson
Bailey	Bamberg	Bannister
Bauer	Bernstein	Blackwell
Bradley	Brewer	Brittain
Bustos	Calhoon	Carter
Caskey	Clyburn	Cobb-Hunter
Collins	Connell	B. J. Cox
B. L. Cox	Crawford	Davis
Dillard	Elliott	Erickson

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Felder	Forrest	Gagnon
Garvin	Gibson	Gilliam
Gilliard	Guest	Guffey
Haddon	Hager	Hardee
Hart	Hartnett	Hayes
Henderson-Myers	Hewitt	Hiott
Hixon	Hosey	Howard
Hyde	Jefferson	J. L. Johnson
W. Jones	Jordan	King
Kirby	Landing	Lawson
Leber	Ligon	Long
Lowe	McCravy	McGinnis
Mitchell	T. Moore	Moss
Murphy	Neese	B. Newton
W. Newton	Ott	Pendarvis
Robbins	Rose	Rutherford
Sandifer	Schuessler	G. M. Smith
M. M. Smith	Spann-Wilder	Stavrinakis
Taylor	Thayer	Vaughan
Weeks	West	Wetmore
Wheeler	Whitmire	Williams
Willis	Wooten	Yow

**Total--93**

Those who voted in the negative are:

Beach	Burns	Chumley
Cromer	Harris	S. Jones
Kilmartin	Magnuson	May
McCabe	A. M. Morgan	T. A. Morgan
O'Neal	Oremus	Pace
Trantham	White	

**Total--17**

So, the motion to appeal the Ruling of the Speaker *Pro Tempore* was tabled.

Further proceedings were interrupted by the time expiring on the uncontested calendar. the pending question being the consideration of amendments.



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**RECURRENCE TO THE MORNING HOUR**

Rep. STAVRINAKIS moved that the House recur to the morning hour, which was agreed to.

**HOUSE RESOLUTION**

The following was introduced:

H. 5499 -- Reps. Bailey, Alexander, Anderson, Atkinson, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A HOUSE RESOLUTION TO EXPRESS DEEP APPRECIATION TO JEAN BOSEMAN FOR HER FAITHFUL SERVICE FOR A THIRD OF A CENTURY ON BEHALF OF FAIR ELECTIONS AND FOR HER DEVOTION TO THE DEMOCRATIC PROCESS IN NORTH MYRTLE BEACH.

The Resolution was adopted.

**S. 408--AMENDED AND ORDERED TO THIRD READING**

Debate was resumed on the following Bill, the pending question being the consideration of amendments:

S. 408 -- Senators Shealy and McLeod: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-75-250, RELATING TO ISSUANCE OF LICENSE, DISPLAY, AND RENEWAL, SO AS TO REQUIRE ONE HOUR OF SUICIDE

[HJ]

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PREVENTION TRAINING AS A PORTION OF THE TOTAL CONTINUING EDUCATION REQUIREMENT; AND BY AMENDING SECTION 40-75-540, RELATING TO REGULATIONS FOR CONTINUING EDUCATION AND LICENSE RENEWAL, SO AS TO REQUIRE ONE HOUR OF SUICIDE PREVENTION TRAINING AS A PORTION OF THE TOTAL CONTINUING EDUCATION REQUIREMENT.

Rep. Cromer proposed the following Amendment No. 4 to S. 408 (LC-408.VR0020H), which was adopted:

Amend the bill, as and if amended, SECTION 1, by striking Section 40-75-250(D) and inserting:

(D) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

~~(D)~~ (E) A licensee who allows the license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon payment of a reinstatement fee and the current renewal fee. The board, by regulation, may impose additional requirements for reinstatement.

Amend the bill further, SECTION 2, by striking Section 40-75-540(B) and inserting:

(B) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

Amend the bill further, SECTION 3, by striking Section 40-63-250(E) and inserting:

(E) A person licensed under this chapter must receive at least one contact hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

Re-number sections to conform.

Amend title to conform.

Rep. CROMER explained the amendment.

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Rep. SANDIFER demanded the yeas and nays which were taken,  
resulting as follows:

Yeas 98; Nays 11

Those who voted in the affirmative are:

Alexander	Anderson	Atkinson
Bailey	Ballentine	Bamberg
Bannister	Bauer	Beach
Bernstein	Blackwell	Brewer
Brittain	Burns	Bustos
Calhoon	Carter	Chapman
Chumley	Clyburn	Cobb-Hunter
Collins	Connell	B. J. Cox
Crawford	Cromer	Davis
Dillard	Elliott	Erickson
Forrest	Gagnon	Garvin
Gilliard	Guest	Guffey
Haddon	Hager	Hardee
Harris	Hart	Hartnett
Hayes	Henderson-Myers	Hewitt
Hosey	Howard	Jefferson
J. L. Johnson	S. Jones	W. Jones
Jordan	Kilmartin	King
Kirby	Landing	Lawson
Leber	Lowe	Magnuson
May	McCabe	McCrary
McDaniel	McGinnis	Mitchell
T. Moore	A. M. Morgan	T. A. Morgan
Moss	Neese	B. Newton
O'Neal	Oremus	Ott
Pace	Pedalino	Pendarvis
Pope	Robbins	Rose
Rutherford	Schuessler	G. M. Smith
M. M. Smith	Spann-Wilder	Stavrinnakis
Taylor	Thayer	Trantham
Vaughan	Weeks	West
Wetmore	White	Williams
Willis	Wooten	

**Total--98**

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Those who voted in the negative are:

Bradley	Caskey	Felder
Gibson	Gilliam	J. E. Johnson
Ligon	Long	Sandifer
Whitmire	Yow	

**Total--11**

The amendment was then adopted.

Rep. GUFFEY spoke in favor of the Bill.

The question recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 103; Nays 9

Those who voted in the affirmative are:

Alexander	Anderson	Atkinson
Bailey	Ballentine	Bamberg
Bannister	Bauer	Beach
Bernstein	Blackwell	Bradley
Brewer	Brittain	Burns
Bustos	Calhoon	Carter
Caskey	Chapman	Chumley
Collins	Connell	B. J. Cox
B. L. Cox	Crawford	Cromer
Davis	Dillard	Elliott
Erickson	Felder	Forrest
Gagnon	Gibson	Gilliam
Guest	Guffey	Haddon
Hager	Hardee	Hart
Hartnett	Hayes	Hewitt
Hiott	Hixon	Hosey
Howard	Jefferson	J. E. Johnson
S. Jones	Jordan	Kilmartin
Kirby	Landing	Lawson
Leber	Ligon	Long
Lowe	Magnuson	May
McCabe	McCrary	McGinnis
Mitchell	T. Moore	A. M. Morgan

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T. A. Morgan	Moss	Murphy
Neese	B. Newton	W. Newton
O'Neal	Oremus	Ott
Pace	Pedalino	Pope
Robbins	Rose	Rutherford
Sandifer	Schuessler	G. M. Smith
M. M. Smith	Stavrinakis	Taylor
Thayer	Trantham	Vaughan
Weeks	West	Wetmore
Wheeler	White	Whitmire
Williams	Willis	Wooten
Yow		

**Total--103**

Those who voted in the negative are:

Cobb-Hunter	Garvin	Gilliard
Henderson-Myers	J. L. Johnson	King
McDaniel	Pendarvis	Spann-Wilder

**Total--9**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 728--DEBATE ADJOURNED**

The following Bill was taken up:

S. 728 -- Senator Gustafson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 23-9-197(A)(3), RELATING TO THE FIREFIGHTER CANCER HEALTH CARE BENEFIT PLAN, SO AS TO PROVIDE THAT THE DEFINITION OF "FIREFIGHTER" SHALL INCLUDE NON-RESIDENTS OF SOUTH CAROLINA WHO WORK IN THE STATE.

Rep. SANDIFER moved to adjourn debate on the Bill until Thursday, May 2, which was agreed to.

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**S. 962--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 962 -- Senator Cromer: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-71-2330, RELATING TO DUTIES OF PHARMACY SERVICE ADMINISTRATIVE ORGANIZATIONS, SO AS TO REMOVE THE REQUIREMENT THAT PHARMACY SERVICE ADMINISTRATIVE ORGANIZATIONS MUST ACT AS FIDUCIARIES TO PHARMACIES.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 962 (LC-962.HA0001H), which was adopted:

Amend the bill, after the title but before the enacting words, by adding:

Whereas, South Carolina is achieving remarkable economic development success which is bringing jobs and prosperity to its citizens; and

Whereas, from January to December 2023, the state announced total capital investments of 9.22 billion dollars and over 14,000 jobs, the second largest amount in state history; and

Whereas, in 2022, the state announced 120 projects creating over 14,000 new jobs with 10.27 billion dollars in new capital investment, the largest amount in state history; and

Whereas, since 2017, the state has announced over 36.4 billion dollars in new investments and 86,378 new jobs; and

Whereas, according to the U.S. Census Bureau, South Carolina led the nation in population growth in 2023; and

Whereas, the rapidly expanding population and record-breaking economic development successes necessitate a strategic and forward-thinking approach to developing new energy infrastructure capable of meeting the energy needs of South Carolina's residents and supporting the continued prosperity of the state; and

Whereas, sustaining this success in economic development requires an electric system that can grow and modernize to meet the demands that a prosperous and developing economy places on it; and

Whereas, the South Carolina General Assembly recognizes that the convergence of escalating population growth, record-breaking economic success, and the aging of existing energy infrastructure has created a critical juncture, demanding immediate and decisive action to avert an impending energy crisis; and

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Whereas, the urgency of addressing this situation is underscored by the interconnected challenges of meeting surging energy demand, ensuring grid reliability, and fortifying the state's resilience against potential disruptions, thereby compelling the imperative for the timely construction of new energy plants to safeguard the continued well-being and economic vitality of South Carolina; and

Whereas, in light of these facts, it is important that the General Assembly take action to ensure that generation and transmission providers are able to plan, site, and construct new and replacement generation and transmission resources in a timely and cost-effective manner, utilizing procedures that are fair, prompt, efficient, and guided by an informed Public Service Commission; and

Whereas, the General Assembly has determined that certain aspects of the current regulatory structure in South Carolina can be revised to reduce the cost, delay, and uncertainty of planning, siting, and constructing new generation and transmission resources serving customers in this state; and

Whereas, the General Assembly further finds that the current circumstances present a unique opportunity to replace or limit reliance on the Williams Generating Station operated by Dominion Energy South Carolina, Inc. ("DESC") in Bushy Park, South Carolina; and the Winyah Generating Station operated South Carolina Public Service Authority ("SCPSA") in Georgetown, South Carolina, and perhaps other units as well, through a joint venture between these utilities; and

Whereas, DESC owns the site of the retired Canadys coal units in Colleton County (the "Canadys site") which represent an environmentally well-characterized brownfield site with unique attributes, including electric transmission infrastructure on-site, proximity to a major switching station interconnecting the DESC and SCPSA transmission systems serving coastal South Carolina, and reasonable proximity to natural gas supplies which can be accessed through existing natural gas rights of way; and

Whereas, modern combined-cycle units provide dispatchability and operating flexibility that will allow DESC and SCPSA systems to continue to add large amounts of flexible resources to their systems without jeopardizing cost-efficient and reliable service to customers; and

Whereas, the integrated resource planning by both utilities consistently indicates the need for and benefit of additional combined-cycle natural gas resources under multiple planning scenarios; and

Whereas, by pursuing replacement resources as a joint project, DESC

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and SCPSA can build larger, more fuel-efficient, lower-emitting units, and can reduce the capital cost per MW of these units by as much as 25% or more compared to building single, stand-alone units sized to meet their individual needs alone while at the same time reducing the environmental and land-use impact of the natural gas pipeline and transmission infrastructure required to support separate units; and

Whereas, the joint project can provide a unique opportunity to anchor the expansion of natural gas pipelines serving certain coastal counties of South Carolina where economic development is currently hampered by the lack of such supplies, thereby increasing jobs, prosperity and public welfare in those areas and can do so with minimal environmental disruption; and

Whereas, in light of the unique circumstances presented by the shared needs of DESC and SCPSA for replacement generation in the Charleston and Georgetown areas, the unique benefits of a partnership between them for this purpose, and the unique benefits of the Canadys site as the location for a joint resource, the General Assembly finds that these circumstances support amending the enabling act of the SCPSA to authorize it in a joint venture to develop and share in the output of one or more combined cycle natural gas units to be located at the Canadys site and encourages the utility to seek, as soon as practicable, a certificate as defined under the terms of the Utility Facility Siting and Environmental Protection Act for DESC to construct and operate combined cycle natural gas units to be located at the Canadys site; and

Whereas, Duke Energy Carolinas Bad Creek Pumped Storage facility, including ongoing uprates, is an approximate 1,640 MW energy storage facility located in Oconee County South Carolina; and

Whereas, Duke Energy Carolina has identified the opportunity to approximately double the output of the Bad Creek Pumped Storage facility by constructing new pump turbines, generators, and a new powerhouse; and

Whereas, by increasing the generating capacity at the Bad Creek facility, Duke Energy Carolinas can approximately double its existing peak hourly storage capacity; and

Whereas, in light of the unique circumstances presented by the potential expansion of Duke Energy Carolinas' energy storage capacity by expanding the Bad Creek facility without construction of a new reservoir, and considering the unique benefits for customers served by Duke Energy Carolinas' electrical system such an expansion represents, the General Assembly encourages the utility to complete evaluations related to expanding the Bad Creek facility to double its output; and



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Whereas, in light of the unique circumstances presented in the plans of Duke Energy Carolinas LLC and Duke Energy Progress LLC to secure approximately 7,000 MW of natural gas generation facilities for the benefit of their customers in South Carolina, the General Assembly encourages the utilities to undertake such activities as may be necessary to pursue and facilitate additional natural gas generation to serve its customers in this state; and

Whereas, the South Carolina General Assembly recognizes the potential for substantial economic and environmental benefits through the implementation of robust energy efficiency and demand-side management initiatives; and

Whereas, investing in energy efficiency and demand-side management initiatives not only reduces overall energy consumption but also alleviates the strain on existing electric generation infrastructure, leading to cost savings for consumers, businesses, and the state; and

Whereas, the promotion of energy efficiency and demand-side management initiatives offers a prudent and cost-effective approach to address increasing energy demands, thereby lessening the necessity for construction of new electric-generation facilities in the future, and contributing to a more sustainable and resilient energy future for South Carolina; and

Whereas, the South Carolina General Assembly acknowledges the transformative potential of advanced nuclear generation, such as small modular reactors (SMRs), understanding that their compact size addresses significant challenges associated with traditional nuclear power, offering the promise of expedited and cost-effective plant construction, coupled with enhanced safety in operational practices, along with offering reliable carbon-free energy generation that can operate nearly 24/7; and

Whereas, the South Carolina General Assembly recognizes the strategic importance of investigating in and pursuing advanced nuclear technologies such as small modular reactors and molten salt reactors at this time, understanding that proactive engagement in research and development positions the state to capitalize on future opportunities when SMRs become economically and technologically viable; and

Whereas, the SC Nexus for Advanced Resilient Energy consortium, developed in collaboration with our research universities, technical colleges, state agencies, the Savannah River National Laboratory, economic development non-profits, and private businesses, won the U.S. Department of Commerce's Economic Development Administration's designation as one of the Regional Technology and Innovation Hubs;

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and

Whereas, the South Carolina General Assembly recognizes establishing an Energy Policy Institute is a pivotal step towards supporting the efforts of SC Nexus and for guiding informed decision-making for the state's energy future; and

Whereas, understanding the complexity of energy issues, the establishment of an Energy Policy Institute is essential to equipping the state with the necessary expertise and resources to make well-informed choices, fostering a comprehensive understanding of intricate energy matters; and

Whereas, SC Nexus will assist the state as a global leader in advanced energy by developing, testing, and deploying exportable energy technologies and understanding that new manufactures of those technologies can locate their operations at a place of their choosing, an Energy Policy Institute is integral to positioning the state strategically for economic development success by ensuring the economic benefits resulting from SC Nexus remain in South Carolina, and ensuring that energy policies align with the state's growth objectives and policy goals, while simultaneously safeguarding the interests of ratepayers and promoting a sustainable and resilient energy landscape; and

Whereas, it is imperative to direct the Office of Regulatory Staff (ORS) to conduct a comprehensive energy assessment and formulate a ten-year energy action plan not only to identify additional actions to take over the next decade to address the critical need to ensure an adequate and reliable power supply but also to serve as a proactive forum to thoroughly examine unresolved issues vital to achieving economic development success within the dynamic and evolving energy sector; and

Whereas, the South Carolina General Assembly determines that comprehensive legislation is needed to promote the development of new and reliable energy infrastructure resources, fostering resilient and reliable energy infrastructure critical to the economic success of the state of South Carolina. Now, therefore,

Amend the bill further, by striking all after the enacting words and inserting:

SECTION 1. Section 38-71-2330(A)(1) of the S.C. Code is amended to read:

(1) ~~act as a fiduciary to a pharmacy and~~ perform its duties to a pharmacy exercising good faith and fair dealing;

SECTION 2. This act may be cited as the “South

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Carolina Energy Security Act”.

SECTION 3. Section 58-3-20 of the S.C. Code is amended to read:

Section 58-3-20. (A) The commission is composed of ~~seven~~<sup>three</sup> members to be elected by the General Assembly in the manner prescribed by this chapter. Each member must have:

(1) a baccalaureate or more advanced degree from:

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

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

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

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

(a) energy issues;

(b) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

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

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

~~(C) (B)(1) The General Assembly must provide for the election of the seventhree-member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify. The commission members must be elected to terms of four years and until their successors are elected and qualify.~~

~~(2) The commission members must be elected from the state at large; however, membership on the commission should reflect all segments of the population of the State, to the greatest extent possible.~~

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

SECTION 4. Section 58-3-140 of the S.C. Code is amended to read:  
Section 58-3-140. (A)(1) Except as otherwise

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provided in Chapter 9 of this title, the commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State.

(2) The commission must promulgate regulations to establish safety, maintenance, and inspection standards for the public utilities and may assess fines for public utilities that violate these standards.

(B)(1) The commission, in conducting its analysis and making a decision in matters involving electrical utilities, must consider the economic impact to the State when fixing just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every electrical utility in this State.

(2) The General Assembly declares the rates, services, and operations of electrical utilities are a matter of public interest and the availability of an adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina is a matter of public policy. When exercising its powers under this section, the commission must balance the public interest in determining the rates, services, and operations of electrical utilities. It is the policy of this State for the commission, in matters involving electrical utilities, to:

(a) ensure South Carolina customers have access to an adequate, reliable, and economical supply of energy resources;

(b) sustain growth in industrial and economic development by ensuring an electric generation, transmission, and distribution system that can grow and modernize to meet the demands that a prosperous and developing economy places on it;

(c) provide fair regulation of electrical utilities in the interest of the public in a manner that maintains the financial integrity of the electrical utility by assuring a sufficient and fair rate of return, supports economic development and industry retention, and provides just and reasonable rates to be established for entities providing electrical utility services to customers in this State while promoting adequate, reliable, and economical utility service to all of the citizens and residents of this State;

(d) provide the State and the public with a well-regulated electrical utility environment;

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(e) assure that resources necessary to meet future growth through the provision of adequate, reliable electrical utility service include use of the entire spectrum of demand-side options, including but not limited to, conservation, load management, and energy efficiency programs as additional sources of energy supply and energy demand reduction;

(f) provide just and reasonable rates and charges for electrical utility services without undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic generation and uses of energy;

(g) assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities, and to that end, to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities;

(h) recognize the important role of utilities in economic development and industry retention and the necessity for utilities to maintain the ability to finance continued investment in, and operation and maintenance of, the electric system, rapid restoration of power after major storms and outages, rate designs, and infrastructure necessary to attract and retain businesses and jobs to South Carolina, the ability to obtain financing at attractive rates, and to ensure a viable workforce for providing electricity and to attract such utility workers at market-competitive wages;

(i) seek to encourage and promote harmony between public utilities, their users, and the environment;

(j) foster the continued service of electrical utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare, economic development, and industry retention;

(k) seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide economic development and industry retention;

(l) encourage the continued study and research on new and innovative rate designs which will protect the State, the public, the ratepayers and the utilities;

(m) facilitate the construction of facilities in and the extension of natural gas service to unserved and underserved areas

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in order to promote the public welfare throughout the State;

(n) further the development of cleaner energy technologies on a cost-effective basis to protect the natural resources of this State, promote the health and well-being of the people of this State, and attract investments, create employment opportunities, drive economic growth, and foster innovation in this State; and

(o) accomplish regulatory processes and issue orders in a timely manner.

~~(B)~~(C) The commission must develop and publish a policy manual which must set forth guidelines for the administration of the commission. All procedures must incorporate state requirements and good management practices to ensure the efficient and economical utilization of resources.

~~(C)~~(D) The commission must facilitate access to its general rate request orders in contested matters involving more than one hundred thousand dollars by publishing an order guide which indexes and cross-references orders by subject matter and case name. The order guide must be made available for public inspection.

~~(D)~~(E) The commission must promulgate regulations to require the direct testimony of witnesses appearing on behalf of utilities and of witnesses appearing on behalf of persons having formal intervenor status, such testimony to be reduced to writing and prefiled with the commission in advance of any hearing. In contested case proceedings, the applicant seeking relief from the commission shall have the right to prefile rebuttal testimony responsive to the direct prefiled testimony of other parties. The commission may allow supplemental testimony in cases where new matters arise after the filing of direct testimony, provided that parties shall have the right to respond to such supplemental testimony. The procedural schedule for each contested case proceeding shall include dates for completion of each phase of discovery, including discovery related to the application or other initial pleading as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, rebuttal testimony of the applicant, and surrebuttal testimony but only if allowed by the commission upon motion that there is material new information for which surrebuttal testimony is required. The commission must act on a motion to allow surrebuttal testimony within three business days. Except upon showing of exceptional circumstances or surprise, all discovery must be completed not less than ten days prior to the hearing.

(F) The commission may convene public hearings to allow electrical utility customers to address the commission as public

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witnesses without intervening in the proceedings and without subjecting themselves to discovery or prefilings testimony. Public witnesses may address the commission on issues related to customer service, utility operations, reliability, economic hardship, affordability, environmental concerns, or other matters that affect them. The electrical utility and the Office of Regulatory Staff shall work to investigate and resolve individual service issues raised by public witnesses.

(G) Any other provision of law notwithstanding, to the extent the commission is authorized by the General Assembly to employ an independent third-party consultant to assist the commission in its duties with respect to a matter before the commission, such consultant may only rely upon evidence introduced by a party to that proceeding into the record subject to the requirements of the South Carolina Administrative Procedures Act. Further, the commission may not give any consultant employed by the commission party status in a proceeding before the commission.

~~(E)~~(H) Nothing in this section may be interpreted to repeal or modify specific exclusions from the commission's jurisdiction pursuant to Title 58 or any other title.

~~(F)~~(I) When required to be filed, tariffs must be filed with the office of the chief clerk of the commission and, on that same day, provided to the Executive Director of the Office of Regulatory Staff.

SECTION 5. Section 58-3-250(B) of the S.C. Code is amended to read:

(B) A copy of every final order or decision under the seal of the commission must be served by electronic service, or registered or certified mail, upon all parties to the proceeding or their attorneys. Service of every final order or decision upon a party or upon the attorney must be made by emailing a copy of the order to the party's email address provided to the commission or by mailing a copy to the party's last known address. If no email or other address is known, however, service shall be made by leaving a copy with the chief clerk of the commission. The order takes effect and becomes operative when served unless otherwise designated and continues in force either for a period designated by the commission or until changed or revoked by the commission. If, in the judgment of the commission, an order cannot be complied with within the time designated, the commission may grant and prescribe additional time as is reasonably necessary to comply with the order and, on application and for good cause shown, may extend the time for compliance fixed in its order.

SECTION 6. Section 58-4-10 of the S.C. Code is amended to read:

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

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

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

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

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

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

SECTION 7. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-150. (A) To further advance and expand upon Executive Order 2023-18 which established the PowerSC Energy Resources and Economic Development Interagency Working Group, the Office of Regulatory Staff, in consultation with a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations, natural gas and electrical utilities, the South Carolina Public Service Authority, and other affected state agencies, shall prepare a comprehensive South Carolina energy assessment and action plan, hereinafter referred to as “the plan”. This plan must identify recommended actions over a ten-year period to ensure the availability of adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina. For purposes of this section, natural gas and electrical utilities also includes any investor-owned electrical utility, a public utility as defined in Section 58-5-10, the Public Service Authority, electric cooperatives, and any consolidated political subdivision that owns or operates in this State

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equipment or facilities for generating, transmitting, delivering, or furnishing electricity, but does not include an entity that furnishes electricity only to itself, its residents, or tenants when such current is not resold or used by others.

(B) The Office of Regulatory Staff, in collaboration with the electrical utilities and the South Carolina Public Service Authority, shall aggregate data and analyses from their most recent integrated resource plans approved by the commission, and include any updates or associated filings and other available data in order to create a statewide comprehensive view of the availability of an adequate, reliable, and economical supply of energy resources to the people and economy of South Carolina.

(C) The plan must detail factors, and make recommendations, essential to adequate, reliable, and economical supply of energy resources for the people and economy of South Carolina, including but not limited to:

(1) projections of energy consumption in South Carolina, including the use of fuel resources and costs of electricity and generation resources across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas used to serve the State;

(2) the adequacy of electricity generation, transmission, and distribution resources in this State to meet projections of energy consumption;

(3) the adequacy of infrastructure utilized by natural gas industries in providing fuel supply to electric generation plants or otherwise for end-use customers;

(4) the overall needs of the South Carolina electric grid and transmission system and details from the plans of each electrical utility and the South Carolina Public Service Authority to meet current and future energy needs in a cost-effective, reliable, economic, and environmental manner;

(5) an assessment of state and local impediments to expanded use of generation or distributed resources and recommendations to reduce or eliminate such impediments;

(6) how energy efficiency, demand-side management programs, and conservation initiatives across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas may be expanded to lower bills and reduce electric consumption;

(7) details regarding potential siting of energy resource and transmission facilities in order to identify any disproportionate adverse impact of such activities on the environment, agricultural community,

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land use, and economically disadvantaged or minority communities;

(8) details regarding commercial and industrial consumer clean energy goals and options available to such customers to achieve these goals, including:

(a) an analysis of the barriers commercial and industrial consumers face in making such investments in this State;

(b) an analysis of any electric and natural gas regulatory barriers to the recruitment and retention of commercial and industrial customers in this State; and

(c) recommendations to address any barriers identified in items (a) and (b) in a manner that is consistent with the public interest and which is not duly impactful to nonparticipating customers as it pertains to rate and system impacts, and which is not unduly impactful to entities providing public utility services.

(C) In preparing the plan the Office of Regulatory Staff may retain an outside expert to assist with compiling this report.

(D) In addition to the information required by this section, the plan must include recommendations for legislative, regulatory, or other public and private actions to best ensure a reliable and reasonably priced energy supply in South Carolina that supports the continued growth and success of this State. In forming these recommendations, the Office of Regulatory Staff must confer with the stakeholder group to ensure the recommendations would likely achieve the intended result for the electric grid, electric generation, and natural gas resources serving South Carolina customers.

(E) The plan must be submitted to the Public Utilities Review Committee for approval.

(F) The provisions of this section are subject to funding.

SECTION 8. Title 58 of the S.C. Code is amended by adding:

CHAPTER 38

South Carolina Energy Policy Institute

Section 58-38-10. This chapter is known as and may be cited as the “South Carolina Energy Policy Research and Economic Development Institute” or “EPI”.

Section 58-38-20. The General Assembly finds that:

(1) It is in the public interest of South Carolina to establish an Energy Policy Research and Economic Development Institute, also referred to as EPI, to support the efforts of the Advanced Resilient Energy Nexus, also referred to as SC Nexus, and research and propose solutions to address major challenges in the complex and evolving area of energy generation and storage.

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(2) Research and documenting reliable data is essential for thoughtful consideration of the complex issues and concerns impacting energy generation and storage and the need for timely, substantive, and thorough advice from the EPI to the South Carolina General Assembly is critical to continue to position this State as a global leader.

(3) Advancement through the EPI of the broad collaboration through the SC Nexus will assist the State as a global leader in advanced energy by developing, testing, and deploying exportable electricity technologies. It will also allow the State to leverage the region's dynamic and growing manufacturing base, superior research capabilities, and demonstrated record of public-private collaboration to innovate and commercialize emerging energy storage materials and manufacturing techniques, including a demonstrative microgrid implementation that integrates renewable energy and storage into the state's electricity systems.

(4) The topography of South Carolina, with its coastal plains and low country, confronts further complications. While the State possesses renewable energy resources like hydropower potential from its rivers and lakes and biomass from wood and landfill gas, the lack of sustainable energy production exacerbates the energy deficit. It is critical that South Carolina provide safe, reliable, and affordable energy.

(5) The industrial sector in South Carolina accounts for approximately one-third of the state's total energy use and heavily depends on energy consumption. Continued economic development and industry retention depends upon safe, reliable, and affordable energy generation.

(6) South Carolina will need to continue moving toward reliable power from emerging energy sources to ensure continued economic growth and secure energy for residential usage.

(7) The EPI shall collaborate across South Carolina in coordination with SC Nexus, Savannah River National Laboratory, energy utility providers, private industry, and workforce development to deliver advice on policy creation aligned with the state's distinctive needs and opportunities. EPI shall support and collaborate with SC Nexus, a consortium of public and private entities, formed within the South Carolina Department of Commerce concerning power generation, transmission, and storage.

Section 58-38-30. (A) The EPI shall be established by the University of South Carolina to serve as an expert and reliable advisory resource for state policymakers, government, and industry. This institute shall bring together a coalition of experts from various domains within

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the energy ecosystem, individuals and organizations specializing in innovating public policy approaches, as well as specialists from across higher education, including but not limited to, the University of South Carolina, Clemson University, and South Carolina State University. The EPI shall aid South Carolina in developing a strategic long-term approach to address energy-related challenges and economic development opportunities for the State of South Carolina.

(B) The EPI shall be governed by a board of six members which shall provide oversight and guidance to the EPI. This board shall be composed of:

- (1) Speaker of the House of Representatives or his designee;
- (2) President of the Senate or his designee;
- (3) Chairman of the Ways and Means Committee of the House of Representatives, or his designee;
- (4) Chairman of the Finance Committee of the Senate or his designee;
- (5) Chairman of the Labor, Commerce and Industry Committee of the House of Representatives or his designee; and
- (6) Chairman of the Judiciary Committee of the Senate or his designee.

Section 58-38-40. (A) Annual deliverables for the EPI shall align with the goals and priorities of critical state objectives and legislative needs of South Carolina as determined by the board.

(B) The EPI shall prepare concise and informative documents that outline the key energy policy issues in South Carolina for members of the South Carolina General Assembly. These briefs shall offer evidence-based recommendations and their potential impacts to assist the legislature in decision making.

(C) The EPI shall provide in-depth research on various aspects of energy policy relevant to South Carolina, at the direction of the board.

(D) The EPI shall provide stakeholder engagement reports, including identification and engagement with relevant stakeholders in the energy sector, including industry representatives, environmental groups, consumer advocates, and community organizations. The EPI shall compile reports on stakeholder perspectives, concerns, and suggestions to aid the legislature in understanding different viewpoints.

(E) The EPI shall evaluate the economic implications of different energy policy options, including the potential costs and benefits to the state's economy, job market, industry competitiveness, and underdeveloped communities. The EPI must use modeling techniques to estimate direct and indirect impacts on various sectors.

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(F) The EPI shall develop practical framework recommendations for implementing energy policies in South Carolina, considering regulatory mechanisms, enforcement mechanisms, and coordination between different government agencies. These frameworks must address potential challenges and propose strategies for successful implementation.

(G) The EPI may host fellowships by which entities could offer the time and services of employees by which the EPI could leverage the knowledge, experience, and participation of such entities.

SECTION 9. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-195. (A)(1) The General Assembly finds:

(a) The Public Service Commission, hereinafter referred to as “the commission”, issued Order No. 2023-860 approving Dominion Energy South Carolina, Inc.’s integrated resource plan, and Order No. 2024-171 approving the South Carolina Public Service Authority’s integrated resource plan. The commission determined these integrated resource plans represented the most reasonable and prudent means to meet each utility’s energy and capacity needs as of the time each integrated resource plan was reviewed.

(b) Dominion Energy South Carolina, Inc.’s integrated resource plan identified a natural gas combined cycle unit as the optimum replacement unit for the Williams Station, which Dominion Energy South Carolina, Inc. intends to retire in 2030, assuming replacement capacity is available at that time. Dominion Energy South Carolina, Inc. proposed to locate this natural gas combined cycle unit facility at the site of its now retired Canadys coal plant, and Dominion Energy South Carolina, Inc. is pursuing a plan to build it jointly with the Public Service Authority under a Memorandum of Understanding, also referred to as the “Joint Resource”.

(c) The commission found that Dominion Energy South Carolina, Inc.’s Reference Build Plan replacing the Williams Station with the Joint Resource best meets the criterion of “consumer affordability and least cost” pursuant to Section 58-37-40(C)(2)(b).

(d) The commission found that the Public Service Authority’s Preferred Portfolio, referred to as “Supplemental”, as the preferred plan to guide the Public Service Authority’s generation and transmission planning over the next three years, with updates as necessary, represented the most reasonable and prudent means of meeting the Public Service Authority’s energy and capacity needs.

(e) The commission found the Supplemental is the most

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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.

(f) The commission determined the Public Service Authority sufficiently considered alternatives to the natural gas combined cycle unit.

(g) The commission found that the Supplemental allows the Public Service Authority to meet the electric power needs of its retail and wholesale customers reliably and affordably, reduces its carbon footprint, and adds flexibility and innovation to support a growing state economy.

(2) The General Assembly encourages Dominion Energy South Carolina, Inc. and the Public Service Authority to jointly complete evaluations related to the Joint Resource and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or authorize construction and operation of the facilities subject to this section in preference to all other pending nonemergency applications or requests. The General Assembly finds adding natural gas generation capacity at the retired Canadys coal site would advance the economy and general welfare of the State based on current conditions and information as of the effective date of this Act. However, this subsection does not exempt the entities from complying with the requirements of the Utility Facility Siting and Environmental Protection Act, including the requirement to seek commission approval for a certificate of environmental compatibility and public convenience and necessity nor does this subsection limit the commission's independent decision-making authority. The entities are further encouraged to use existing rights of way to the greatest extent practicable.

(B) The General Assembly hereby encourages Duke Energy Carolinas, LLC to complete evaluations for constructing a second powerhouse using the existing reservoir at Bad Creek Pumped Hydro Station in Oconee County, South Carolina, which will approximately double the size and peak hourly capacity of the facility, and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly further encourages Duke Energy Carolinas, LLC to complete evaluations as to

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what may be necessary to interconnect such an expansion of Bad Creek Pumped Hydro Station to the electric grid or otherwise deliver electric power from Duke Energy Carolinas, LLC to its customers, and to include such information as may be necessary from such evaluations in a filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction and operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(C) The General Assembly hereby encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to complete evaluations for constructing hydrogen capable natural gas generation or otherwise to place into service such natural gas generation within the utilities' balancing areas serving South Carolina, and to use such information from the evaluations as may be necessary to make a filing as soon as practicable with the commission to obtain a certification pursuant to Article 3 of this chapter or as otherwise required by law. The General Assembly further encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to determine what facilities may be necessary to interconnect such natural gas generation to the electric grid or otherwise deliver electric power from the utilities to its customers, and to include such information in any filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction or operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(D)(1) In the event any of the projects described in subsections (A), (B), or (C) are approved, the Office of Regulatory Staff, using its authority provided in Title 58, must continuously monitor the project or projects. This includes, but is not limited to, a review of the construction in progress, such as meeting projected timelines and financial projections are met. The Office of Regulatory Staff must provide monthly updates, in writing, to the commission and to the members of the General Assembly. Each electrical utility and the Public Service Authority must cooperate to the fullest extent with the Office of Regulatory Staff.

(2) The commission may, on its own motion, schedule a hearing to address concerns raised by the Office of Regulatory Staff in its written monthly review to the commission.



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(3) The commission shall consider the Office of Regulatory Staff's written monthly reviews in any future matters concerning any facility described in this section.

SECTION 10. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-205. (A) The Public Service Authority shall have the power to jointly own, as tenants-in-common or through a limited liability company, with investor-owned electric utilities of electrical generation and transmission facilities, the power to plan, finance, acquire, own, operate, and maintain an interest in such plants and facilities necessary or incidental to the generation and transmission of electric power and the power to make plans and enter into such contracts as are necessary or convenient for the planning, financing, acquisition, construction, ownership, operation, and maintenance of such plants and facilities. However, the Public Service Authority shall own a percentage of such plants and facilities equal to the percentage of the money furnished or the value of property supplied by the Public Service Authority for the acquisition and construction of the plants and facilities. The Public Service Authority shall also own and control a like percentage of the electrical output thereof.

(B) The Public Service Authority shall be severally liable in proportion to its ownership share of such plants and facilities acquired pursuant to this section for the acts, omissions, or obligations performed, omitted, or incurred by the operator or other owners of the plants and facilities while acting as the designated agent of the Public Service Authority for the purposes of constructing, operating, or maintaining the plants and facilities, or any of them. However, the Public Service Authority shall not be otherwise liable, jointly or severally, for the acts, omissions, or obligations of other owners of the plants and facilities, nor shall any money or property of the Public Service Authority be credited or otherwise applied to the account of the operator or other owners of the plants and facilities, or be charged with any debt, lien, or mortgage as a result of any debt or obligation of the operator or other owners of the plants and facilities.

SECTION 11. Article 9, Chapter 7, Title 13 of the S.C. Code is amended to read:

Article 9

Governor's Nuclear Advisory Council

Section 13-7-810. There is hereby established a Nuclear Advisory Council in the ~~Department of Administration, Office of Regulatory Staff~~, which shall be responsible to the Executive Director

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of the ~~Department of Administration~~ Office of Regulatory Staff and report to the Governor.

Section 13-7-820. The duties of the council, in addition to such other duties as may be requested by the Governor, shall be:

(1) to provide advice and recommendations to the Governor on issues involving the use, handling, and management of the transportation, storage, or disposal of nuclear materials within South Carolina, or such use, handling, transportation, storage, or disposal of nuclear materials outside of the State which may affect the public health, welfare, safety, and environment of the citizens of South Carolina;

(2) to provide advice and recommendations to the Governor regarding matters pertaining to the Atlantic Compact Commission;

(3) to provide advice and recommendations to the Governor regarding the various programs of the United States Department of Energy pertaining to nuclear waste;

(4) to meet at the call of the chair or at a minimum twice a year; and

(5) to engage stakeholders and develop a strategic plan to advance the development of advanced nuclear generation including small modular reactors, molten salt reactors, and spent nuclear fuel recycling facilities to serve customers in this State in the most economical manner at the earliest reasonable time possible.

Section 13-7-830. The recommendations described in Section ~~13-7-620~~ 13-7-820 shall be made available to the General Assembly and the Governor.

Section 13-7-840. The council shall consist of ~~nineten~~ members. One at-large member shall be appointed by the Speaker of the House of Representatives and one at-large member shall be appointed by the President of the Senate. ~~Seven~~Eight members shall be appointed by the Governor as follows: two shall be actively involved in the area of environmental protection; one shall have experience in the generation of power by nuclear means; one shall have experience in the field of nuclear activities other than power generation; two shall be scientists or engineers from the faculties of institutions of higher learning in the State; and ~~one~~two shall be from the public at large; of which one shall be appointed to serve as the chairman and director of the Nuclear Advisory Council. The terms of the members of the council appointed by the Governor shall be coterminous with that of the appointing Governor, but they shall serve at the pleasure of the Governor.

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Vacancies of the council shall be filled in the manner of the original appointment.

Section 13-7-850. The Governor shall designate the chairman from the membership. When on business of the council, members shall be entitled to receive such compensation as provided by law for boards and commissions.

Section 13-7-860. Staff support for the council shall be provided by the ~~Department of Administration~~Office of Regulatory Staff. The Director of the Nuclear Advisory Council must be a full-time employee of the Office of Regulatory Staff.

SECTION 12. Section 37-6-604(C) of the S.C. Code is amended to read:

(C) ~~The~~As of July 1, 2025, the Consumer Advocate ~~shall be provided notice of any matter filed at the Public Service Commission that~~ Advocate's duties regarding intervention in matters that could impact consumers' utility rates, and may intervene as a party and ability to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate are transferred to the Office of Regulatory Staff in order to promote efficiency and avoid duplication of duties.

SECTION 13. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-196. Electrical utilities and the Public Service Authority are encouraged to explore the potential for deploying advanced nuclear facilities including, but not limited to, small modular nuclear facilities at suitable sites. Suitable sites may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and other brownfield sites, such as coal-generation sites. Any utility pursuing deployment of such nuclear facilities must provide annual progress reports to the commission and the Public Utilities Review Committee; this report may be in writing or in the form of testimony in an appropriate proceeding. The utility must provide estimates of the cost of the studies including, but not limited to, planning, licensing, and project development to the commission. If the commission finds such estimated costs are reasonable, prudent, and in the public interest, such costs may be recoverable through rates as they are incurred. Nothing in this section relieves an electrical utility of the burden of filing for a certificate under this article and obtaining appropriate approvals from the commission before commencing construction.

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SECTION 14. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-70. (A) It is the policy of this State to promote the development and operation of advanced nuclear facilities, including small modular nuclear reactors, in the most economical manner and at the earliest reasonable time possible. These facilities are intended to provide electricity that is reliable, resilient, secure, and free of carbon dioxide emissions, as well as promote this state's economic development and industry retention.

(B) As used in this section:

(1) "Electrical utility" has the same meaning as provided in Section 58-27-10(7) and includes the South Carolina Public Service Authority.

(2) "Site" means the geographic location of one or more small modular nuclear reactors.

(3) "Small modular nuclear reactor" means an advanced nuclear reactor that produces nuclear power and has a power capacity of up to 500 megawatts per reactor.

(C) The commission may establish a small modular nuclear reactor pilot program, if such a program is endorsed by the Nuclear Advisory Council. A pilot program must include the following requirements:

(1) any entity that holds a current license from the U.S. Nuclear Regulatory Commission to construct or operate at least one existing nuclear electrical generating facility at the time of the application may apply to the commission for a certificate of public convenience and necessity pursuant to the Utility Facility Siting and Environmental Protection Act;

(2) a certificate may be granted if obtaining a certification of public convenience and necessity would permit the applicant to apply for, use, or leverage at least thirty percent of the construction costs of the small modular nuclear reactor by utilizing any benefits or incentives available to lower the capital or operating costs including, but not limited to, governmental funds, tax credits, grants, and loan guarantees;

(3) the costs and benefits of a small modular nuclear reactor are reasonable and prudent compared to the levelized costs of electricity generation from other resources, applying any governmental tax credits and incentives. Factors that must be considered in levelized costs include fuel factors, economic and environmental benefits, and costs associated with any relative externalities;

(4) no more than three small modular nuclear reactors may receive a permit pursuant to this pilot program.

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(D) An application for this pilot program must include:

(1) if the project's location:

(a) is on or adjacent to an existing or former coal electrical generation site;

(b) is on or adjacent to an existing nuclear facility;

(c) enables coal plant retirement or emissions reduction in the electrical utility's or the South Carolina Public Service Authority's balancing area; or

(d) supports diversity in energy production, reliability, and energy security;

(2) if the project is subject to competitive procurement or solicitation for services and equipment;

(3) a demonstration that the program's costs and benefits are reasonable and prudent and in the interest of South Carolina customers; and

(4) any other information the commission may wish to include in the application.

Nothing in this subsection limits any factors that the commission may consider in its determination of an application.

(E)(1) Reasonable and prudent costs incurred for a small modular nuclear reactor approved pursuant to this section shall be recoverable. In the event an electrical utility abandons a small modular nuclear reactor approved by the commission before its commercial operation, the electrical utility must provide a fulsome accounting to the commission of the circumstances of abandonment. Capital costs may only be recovered if the commission determines that the decision to abandon was reasonable, prudent, and in the public interest; however, these costs shall not include a rate of return. The commission may impose conditions it determines to be necessary to protect customers against unreasonable construction, development, or operational risk including, but not limited to, reporting, inspection, and the potential of requiring the utility to hire an independent third-party construction monitor to evaluate the prudence of the utility's actions and associated expense during the development of the project and construction of the reactor.

(2) The commission must not allow any cost recovery related to a small modular nuclear reactor outside of a rate case.

(F)(1) In addition to the small modular nuclear facility pilot program, electrical utilities and the South Carolina Public Service Authority are encouraged to evaluate the potential for deploying nuclear facilities at suitable sites within this State. A "suitable site" may include sites of current nuclear facilities, sites where nuclear facilities have been

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proposed but not constructed, and brownfield sites, such as coal generation sites.

(2) When evaluating the potential of a nuclear facility, the applicant must provide notice and annual progress reports to the Public Utilities Review Committee, the Nuclear Advisory Council, and the commission. When available, the applicant must also provide cost estimates of the studies related to a potential nuclear facility to serve customers in South Carolina. This includes, but is not limited to, planning, licensing, and project development, the anticipated timeline of an early site permit, and current possibilities or barriers to co-ownership of such facilities, and available federal benefits which may defray costs of these facilities.

(3) In the event the commission finds cost estimates pursuant to item (2) are reasonable and prudent, the costs may be recoverable through rates, even if an application for a certificate of environmental compatibility and public convenience and necessity have not been filed. However, these costs shall not include a rate of return.

(G) Nothing in this section relieves an electrical utility or the South Carolina Public Service Authority of the burden of filing for a certificate pursuant to this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 15. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Article 3

Energy Infrastructure Projects

Section 58-37-100. As used in this article:

(1) “Agency” means any agency, department, board, commission, or political subdivision of this State. However, it does not include the Public Service Commission, except for Sections 58-37-110 and 58-37-120.

(2) “Application” means a written request made to an agency for grant of a permit or approval of an action of matter within the agency’s jurisdiction pertaining to an energy infrastructure project.

(3) “Brownfield energy site” means an existing or former electrical generating site or other existing or former industrial site.

(4) “Energy corridor” means a corridor in which a utility or the South Carolina Public Service Authority has:

(a) transmission lines with a rated voltage of at least 110 kilovolts, including the substations, switchyards, and other appurtenant facilities associated with such lines; or

(b) high pressure natural gas transmission pipelines and the

metering, compression stations, valve station, and other appurtenant facilities associated with such lines.

(5) “Energy corridor project” means an energy infrastructure project that involves the expansion of electric or natural gas delivery capacity in whole or in principal part within an existing energy corridor.

(6) “Energy infrastructure project” means the construction, placement, authorization, or removal of energy infrastructure including, but not limited to, electric transmission and generation assets, natural gas transmission assets, and all associated or appurtenant infrastructure and activities, including communications and distribution infrastructure.

(7) “Permit” means a permit, certificate, approval, registration, encroachment permit, right of way, or other form of authorization.

(8) “Person” means an individual, corporation, association, partnership, trust, agency, or the State of South Carolina.

Section 58-37-110. (A) Given the importance of sufficient, reliable, safe, and economical energy to the health, safety, and well-being of the citizens of South Carolina and to the state’s economic development and prosperity, the General Assembly finds that the prompt siting, permitting, and completion of energy infrastructure projects, energy corridor projects, and brownfield electrical generation projects are crucial to the welfare of the State.

(B) All state agencies are instructed to give expedited review of applications for energy infrastructure projects, to provide reasonable and constructive assistance to applicants to allow the applicants to comply with state law and regulatory requirements as expeditiously as possible, and to be guided by the policy goals established in subsection (A).

(C) All state agencies are instructed to give due weight to the reduction in the environmental, aesthetic, and socioeconomic impacts that are incurred to support the safe, reliable, and economic provision of energy to the people of South Carolina when energy infrastructure projects can be located in existing energy corridors or on brownfield energy sites, and shall consider the relative reductions in such impacts compared to greenfield projects in evaluating projects in existing energy corridors or on brownfield energy sites.

Section 58-37-120. (A) Any agency presented with an application for a permit for an energy infrastructure project shall issue a decision on the application no later than six months after the date the application is received by the agency. If the agency fails to take final action within six months of receipt of the application, the application shall be deemed approved, and the agency shall promptly issue documentation that the applicant may reasonably request establishing that the agency has

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granted the relief requested.

(B) Upon receipt of an application, the agency shall promptly review it for sufficiency and shall provide the applicant with a list of all deficiencies within thirty days of receipt. The identification of by the agency of deficiencies in the application shall not toll the six-month period for agency determination.

Section 58-37-130. The applicant or any person whose private rights are affected by an agency decision or action on an application for a permit for any energy infrastructure project may appeal that decision or action to the South Carolina Supreme Court. The Supreme Court shall hear these appeals as a direct appeal in accordance with the South Carolina Appellate Court Rules. The Court shall provide for an expedited briefing and hearing of the appeal, in preference to all other nonemergency matters on its docket, and decide such appeals on an expedited basis.

Section 58-37-140. The provisions of this article shall expire ten years after its effective date.

SECTION 16. Section 58-40-10(C) of the S.C. Code is amended to read:

(C) "Customer-generator" means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates or discharges electricity from a renewable energy resource, including an energy storage device configured to receive electrical charge solely from an onsite renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a)(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(ii) after June 1, 2024, not more than the lesser of five thousand kilowatts (5,000kW AC) or one hundred percent of contract demand for a nonresidential customer, provided the customer-generator is on a time-of-use rate schedule and any excess energy produced by the customer-generator is credited and reset at the end of each monthly period; or

(iii) more than five thousand kilowatts (5,000kW AC) if agreed to by the customer-generator and the electrical utility, provided that the electrical utility submits the agreement to the commission for consideration and approval if the commission finds the



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agreement to contain appropriate ratemaking provisions and is in the public interest; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

SECTION 17. Section 58-41-30 of the S.C. Code is amended to read:

Section 58-41-30. (A) The ability to utilize clean energy resources for electric power generation is important to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State.

(B) The commission shall be responsive to the clean energy needs of customers and the economic development and industry retention implications for the State when reviewing and approving voluntary clean energy programs. The commission shall consider updates to these voluntary renewable energy programs on an ongoing basis.

(C) Within one hundred and twenty days of the effective date of this chapter, ~~subject to subsection (F),~~ each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the commission, unless as of July 1, 2024, the electrical utility already has a voluntary renewable energy program that conforms with the requirements of this section on file with the commission. The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties shall have the right to participate in the proceeding. The commission ~~may~~ must periodically hold additional proceedings to ~~update the program~~ evaluate whether updates to the programs are necessary. At a minimum, each electrical utility must submit to the commission a program for which the program shall provide that:

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(1) the participating customer shall have the right to select the renewable energy facility and negotiate with the renewable energy supplier on the price to be paid by the participating customer for the energy, capacity, and clean energy environmental attributes of the renewable energy facility and the term of such agreement so long as such terms are consistent with the voluntary renewable program service agreement as approved by the commission;

(2) the renewable energy contract and the participating customer agreement must be of equal duration;

(3) in addition to paying a retail bill calculated pursuant to the rates and tariffs that otherwise would apply to the participating customer, reduced by the amount of the generation credit, a participating customer shall reimburse the electrical utility on a monthly basis for the amount paid by the electrical utility to the renewable energy supplier pursuant to the participating customer agreement and renewable energy contract, plus an administrative fee approved by the commission; and

(4) eligible customers must be allowed to bundle their demand under a single participating customer agreement and renewable energy contract and must be eligible annually to procure an amount of capacity as approved by the commission.

(D) The commission must approve voluntary renewable energy programs, in addition to those provided for in subsection (C), where the participating customer purchases clean energy environmental attributes of new or existing renewable energy facilities owned and operated and recovered on a cost-of-service basis by the electrical utility or otherwise supplies through the execution of agreements with third parties within the utility's balancing authority area. Voluntary renewable energy programs shall also facilitate behind-the-meter options for customers and access to renewable energy resource generation.

~~(B)~~(E) The commission may approve a program that provides for options that include, but are not limited to, both variable and fixed generation credit options.

~~(C)~~(F) The commission ~~may~~ shall limit the total portion of each electrical utility's voluntary renewable energy program that is eligible for the program at a level consistent with the public interest and shall provide standard terms and conditions for the participating customer agreement and the renewable energy contract, subject to commission review and approval.

~~(D)~~(G) A participating customer shall bear the burden

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of any reasonable costs associated with participating in a voluntary renewable energy program. ~~An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section. Purchased power costs incurred by an electrical utility as a result of subsection (C) shall be recovered in the electrical utility's fuel clause pursuant to Section 58-27-865.~~

~~(E)~~(H) A renewable energy facility may be located anywhere in the electrical utility's service territory within the utility's balancing authority.

~~(F) If the commission determines that an electrical utility has a voluntary renewable energy program on file with the commission as of the effective date of this chapter, that conforms with the requirements of this section, the utility is not required to make a new filing to meet the requirements of subsection (A).~~

SECTION 18. Section 58-41-10 of the S.C. Code is amended by adding:

(17) "Energy storage facilities" means any commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time including, but not limited to, electrochemical, thermal, and electromechanical technologies.

SECTION 19. Section 58-41-20 of the S.C. Code is amended to read:

Section 58-41-20. (A) As soon as is practicable after the effective date of this chapter, the commission shall open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within six months after the effective date of this chapter, and at least once every twenty-four months thereafter, the commission shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within such proceeding the commission shall approve one or more standard form power purchase agreements for use for qualifying small power production facilities not eligible for the standard offer. Such power purchase agreements shall contain provisions, including, but not limited to, provisions for force majeure, indemnification, choice of venue, and confidentiality provisions and other such terms, but shall not be determinative of price or length of the power purchase agreement. The commission may approve multiple form power purchase agreements to accommodate various generation technologies and other project-specific characteristics. This provision

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shall not restrict the right of parties to enter into power purchase agreements with terms that differ from the commission-approved form(s). Any decisions by the commission shall be just and reasonable to the ratepayers of the electrical utility, in the public interest, consistent with PURPA and the Federal Energy Regulatory Commission's implementing regulations and orders, and nondiscriminatory to small power producers; and shall strive to reduce the risk placed on the using and consuming public.

(1) Proceedings conducted pursuant to this section shall be separate from the electrical utilities' annual fuel cost proceedings conducted pursuant to Section 58-27-865.

(2) Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(B) In implementing this chapter, the commission shall treat small power producers on a fair and equal footing with electrical utility-owned resources by ensuring that:

(1) rates for the purchase of energy and capacity fully and accurately reflect the electrical utility's avoided costs;

(2) power purchase agreements, including terms and conditions, are commercially reasonable and consistent with regulations and orders promulgated by the Federal Energy Regulatory Commission implementing PURPA; and

(3) each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility or incurred by the electrical utility, including, but not limited to, energy, capacity, and ancillary services provided by or consumed by small power producers including those utilizing energy storage equipment. Avoided cost methodologies approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility.

(C) The avoided cost rates offered by an electrical utility to a small power producer not eligible for the standard offer must be calculated based on the avoided cost methodology most recently approved by the commission. In the event that a small power producer and an electrical utility are unable to mutually agree on an avoided cost rate, the small power producer shall have the right to have any disputed issues resolved by the commission in a formal complaint proceeding. The commission may require mediation prior to a formal complaint proceeding.

(D) A small power producer shall have the right to sell

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the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

(E)(1) Electrical utilities shall file with the commission power purchase agreements entered into pursuant to PURPA, resulting from voluntary negotiation of contracts between an electrical utility and a small power producer not eligible for the standard offer.

(2) The commission is authorized to ~~open a generic docket for the purposes of creating programs~~ approve programs proposed by electrical utilities for the competitive procurement of energy and capacity from renewable energy facilities and, at the electrical utility's option, associated co-located energy storage by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

(3) In establishing standard offer and form contract power purchase agreements, the commission shall consider whether such power purchase agreements should prohibit any of the following:

(a) termination of the power purchase agreement, collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or

(b) the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially

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reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including, but not limited to, a reduction in the contract price relative to the ten year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to subsection (A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

(2) Once an electrical utility has executed interconnection agreements and power purchase agreements with qualifying small power production facilities located in South Carolina with an aggregate nameplate capacity equal to twenty percent of the previous five-year average of the electrical utility's South Carolina retail peak load, that electrical utility shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with the terms, conditions, rates, and terms of length for contracts as determined by the commission in a separate docket or in a proceeding conducted pursuant to subsection (A). The commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state's policy of encouraging renewable energy.

(3) Any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that have been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities within the electrical utility's balancing authority area in South Carolina may competitively procure new renewable energy capacity pursuant to that competitive solicitation process as a means of complying with the Public Utility Regulatory Policies Act. Further, the commission must establish a five-year term for energy purchased at administratively established avoided cost rates

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outside of competitive procurement of renewable energy resources, with the exception of voluntarily negotiated agreements to serve the public interest, for any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that has been approved by the commission if the commission determines that doing so will incentivize participation in the competitive procurement process.

(G) Nothing in this section prohibits the commission from adopting various avoided cost methodologies or amending those methodologies in the public interest.

(H) Unless otherwise agreed to between the electrical utility and the small power producer, a power purchase agreement entered into pursuant to PURPA may not allow curtailment of qualifying facilities in any manner that is inconsistent with PURPA or implementing regulations and orders promulgated by the Federal Energy Regulatory Commission.

~~(I) The commission is authorized to employ, through contract or otherwise, third party consultants and experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the report are intended to be used by the commission along with all other evidence submitted during the proceeding to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third-party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the~~

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~~report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility during the development of the report and whether there were any material information requests that were not adequately fulfilled by the electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. 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.~~

~~(J)~~ (I) Each electrical utility's avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission. The commission may approve any confidentiality protections necessary to allow for independent review and verification of the avoided cost filing.

SECTION 20. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-25. (A) Unless an electrical utility makes an application pursuant to subsection (F) or (G), electrical utilities may file for commission approval of a program for the competitive procurement of renewable energy facilities which may also include, at the utility's option, associated co-located energy storage facilities, also referred to as "eligible facilities", or purchase one-hundred percent of the output from such eligible facilities, including all energy, capacity, ancillary services, and environmental and renewable attributes. Eligible facilities may be located anywhere in the electrical utility's balancing authority area to meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan and associated filings. The commission may not grant approval unless the commission finds and determines that the electrical utility satisfied the requirements of this section and the proposed program is just and reasonable and in the best interests of the electrical utility's customers.

(B) An electrical utility's competitive procurement program filed pursuant to this section must describe the solicitation process, eligibility criteria, timelines, bid evaluation methodology, and identify whether resources procured are intended to also service customer-directed renewable energy procurement programs. The program must be designed to procure renewable energy facilities and at the utility's election, associated co-located energy storage resources, or the output of those facilities, subject to the following requirements:



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(1) renewable energy facilities, and if applicable, energy storage resources, or their output, must be procured via a competitive solicitation process open to all market participants that meet minimum stated eligibility requirements;

(2) the electrical utility shall issue public notification of its intention to issue a competitive solicitation to procure renewable energy facilities and associated co-located energy storage facilities, if applicable, at least ninety days prior to the release of the solicitation, including identifying the proposed target procurement volume, procurement process, and timeline for administering the solicitation;

(3) renewable energy facilities eligible to participate in competitive procurement are those that use renewable generation resources identified in Section 58-39-120(F), which must also satisfy that electrical utility's capacity, energy, or operational needs, as identified by the electrical utility, and take into account the required operating characteristics of the needed capacity;

(4) energy storage facilities, if included by the electrical utility in the solicitation, must be associated equipment located at the same site as the renewable energy facility;

(5) electrical utilities may seek to ensure that their procurement of eligible facilities results in a reasonable balance of ownership of eligible facilities between such utility, including its affiliates and unrelated market participants, and may offer self-developed proposals. However, if an electrical utility or its affiliate seek to participate in the procurement, the electrical utility's program must include an independent evaluator to evaluate all bids offered and to ensure they are fairly and competitively evaluated. For purposes of this section, "independent evaluator" means an independent third party retained by the electrical utility that has no ownership in the electrical utility or a market participant and has the skills and experience necessary to oversee the solicitation process and provide the utility with an independent evaluation of all proposals for ultimate selection. At the conclusion of the solicitation, the independent evaluator shall report to the commission on the openness and fairness of the bid evaluation process and certify that the selection of proposals adhered to the evaluation methodology and requirement of the program.

(C) An electrical utility must make the following publicly available at least forty-five days prior to each competitive solicitation:

(1) pro-forma contract to inform prospective market participants of the procurement terms and conditions for the output purchased by the electrical utility from eligible resources. The pro-forma contract must:

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(a) provide for the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities owned and operated by third parties that commit to allow the procuring electrical utility rights to dispatch, operate, and control the solicited renewable energy facilities in the same manner as the electrical utility's own generating resources;

(b) include standardized and commercially reasonable requirements for contract performance security; and

(c) define limits and compensation for resource dispatch and curtailments.

In the event an electrical utility chooses to procure output from co-located storage, the pro-forma contract must also cover similar terms and conditions as specified herein for those eligible facilities.

(2) pro-forma agreements to govern the procurement of eligible facilities by the electrical utility from market participants;

(3) bid evaluation methodology that ensures all bids are treated equitably, including price and non-price evaluation criteria; and

(4) interconnection requirements, including specification of how bids without existing interconnection agreements will be treated for purposes of evaluation.

(D) After bids are submitted and evaluated, the electrical utility will elect the winning bids based upon the public evaluation methodology.

(E) An electrical utility shall file with the commission a public report summarizing the results of each competitive solicitation within thirty days of finalizing the contract with the winning bidder. The report must include, at a minimum, a summary of the bids received and an anonymized list of the project awards, including size, location, and average award price and tenor.

(F) Notwithstanding the requirements in subsections (B) and (C), the results of all other competitive procurement programs undertaken by an electrical utility within its balancing authority area outside of South Carolina that will serve customers in the electrical utility's balancing authority area within South Carolina and are open to equal participation by eligible facilities located within South Carolina may be approved by the commission if the commission determines such programs enable economic, reliable, and safe operation of the electricity grid in a manner consistent with the public interest. For purposes of this section, "public interest" shall also include the ability of customers to subscribe to customer programs which leverage the competitively procured solar and potential storage contemplated within this section. Any electrical utility that requests acceptance of a system-wide procurement pursuant to this

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section must demonstrate to the commission that the utility has adhered to subsection (D) as defined in that specific competitive procurement program and submit the post solicitation report to the commission, as required by subsection (E).

(G) The commission may determine that a competitive procurement program within an electrical utility's balancing authority area outside of South Carolina that serves customers in the utility's area within South Carolina and is open to equal participation by eligible facilities located within South Carolina satisfies the requirements of this section.

(H) Electrical utilities are permitted to recover costs incurred pursuant to this section, including reasonable and prudent administrative costs to develop and propose procurements under this section, and if approved by the commission, the costs resulting from such procurements through rates established pursuant to Section 58-27-865 or otherwise through rates established pursuant to Section 58-27-870. If the commission denies an application made pursuant to subsection (F) or (G) of this section, and the utility continues with the procurement, then the utility must allocate all costs and benefits associated with the resources being procured away from South Carolina customers.

(I) An electrical utility administering a program for the competitive procurement of renewable energy resources and storage facilities that has been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities located in South Carolina may utilize such programs as means to satisfy its purchase obligations for avoidable capacity from qualifying small power production facilities under the Public Utility Regulatory Policies Act, consistent with Section 58-41-20(F)(3).

SECTION 21.A.A. Section 58-33-20 of the S.C. Code is amended by adding:

(10) The term "like facility" with reference to generation facilities and without limitation, includes a facility or facilities that are proposed to provide capacity on a site currently or previously used for siting electric generation that replaces the capacity of a facility or facilities that are being retired, downrated, mothballed, or dedicated to standby or emergency service at the same site, limited to facilities no more than 300 megawatts, so long as those new facilities will provide an amount of effective load-carrying capacity that in whole or in part will serve to replace the capacity to be lost as a result of retirement, and includes associated transmission facilities needed to deliver power from that facility to customers. A "like facility" with reference to transmission facilities, and without limitation, includes any facility that represents the

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rebuilding, reconductoring, paralleling, increasing voltage, adding circuits or otherwise reconfiguring of an existing transmission line or other transmission facilities including, without limitation, projects to increase the capacity of such facilities, provided such facilities are: (a) located materially within a utility right of way or corridor; (b) located materially within a new right of way or corridor; or (c) substantially located on the property of a customer, prospective customer, or the State.

B. Section 58-33-20(2)(a) of the S.C. Code is amended to read:

(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 or that requires a footprint of more than one hundred twenty-five acres of land.

SECTION 22. Article 3, Chapter 33, Title 58 of the S.C. Code is amended to read:

Article 3

Certification of Major Utility Facilities

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. Upon application for a determination by the Commission that a proposed utility facility constitutes a like facility replacement, the Commission must issue a written order approving or denying the application within sixty days of filing. If the Commission fails to issue a written order within sixty days of the application’s filing, the application shall be deemed as approved. 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

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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;

(d) which is a hydroelectric generating facility over which the ~~Federal Power Commission~~ Federal Energy Regulatory Commission has licensing jurisdiction; or

(e) which is a transmission line or associated electrical transmission facilities constructed by the South Carolina Public Service Authority; (i) for which construction either is commenced within one year after January 1, 2022; or (ii) which is necessary to maintain system reliability in connection with the closure of the Winyah Generating Station, provided that such transmission is not for generation subject to this chapter; or (iii) which is necessary to serve an identified commercial or industrial customer to promote economic development or industry retention as determined by the South Carolina Public Service Authority and agreed to by the Office of Regulatory Staff where such agreement is documented in a letter by the Office of Regulatory Staff to the Public Utilities Review Committee and the commission.

(5) Any person intending to construct a major utility facility excluded from this chapter pursuant to subsection (4) of this section or Section 58-33-20(10) 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

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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, No permission from the Commission shall be required to proceed with initial clearing, excavation, dredging, and initial construction of any facility which constitutes a component of the preferred generation plan in an integrated resource plan or update approved by the Commission pursuant to Chapter 37 of this title, or any like facility; provided 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)(a) Notwithstanding the provisions of item (7), and not limiting the provisions above, a person may not commence construction of a major utility facility for generation in the State of South Carolina without first having made a demonstration. In seeking a certificate, the applicant must provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost, reliability, schedule constraints, fuel cost and availability, transmission constraints and costs, ancillary services capabilities, current and reasonably expected future environmental costs and restrictions, that the facility supports system efficiency and reliability in light of those considerations, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. The commission is authorized to adopt rules for such evaluation of other generation options.~~

~~(b) The commission may, upon a showing of a need, require a commission approved process that includes Office of Regulatory Staff may provide to the commission a report that includes any or all of the following:~~

~~(i) the an assessment of an unbiased independent evaluator retained by the Office of Regulatory Staff as to reasonableness of any certificate sought under this section for new generation;~~

~~(ii) a report from the independent evaluator to the commission regarding the transparency, completeness, and integrity of bidding processes, if any;~~

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(iii) an assessment of whether there was a reasonable period for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade secrets that could hamper future negotiations; however, the independent evaluator may access all such information;

~~\_\_\_\_\_ (iv) independent evaluator access and review of final bid evaluation criteria and pricing information for any and all projects to be evaluated in comparison to the request for proposal bids received;~~

~~\_\_\_\_\_ (v) access through discovery, subject to appropriate confidentiality, attorney-client privilege or trade secret restrictions, for parties to this proceeding to documents developed in preparing the certificate of public convenience and necessity application;~~

(vi) (iv) a demonstration that an assessment of whether the facility is consistent with an integrated resource plan or update approved by previously filed with the commission or is otherwise justified by generation planning modeling comparable to that filed as part of the utility's integrated resource plan but updated with current data concerning system loads, fuel prices, environmental regulations, location-specific transmission costs, updated construction costs and updated construction timelines, updated costs of gas supply facilities, if any, and other relevant costs, schedules or inputs establishing that the facility in question supports system economy and reliability; and

~~(vii) (v) an assessment detailing the treatment of utility affiliates in the same manner as compared to nonaffiliates participating in the request for proposal process, if any.~~

(9) The applicant may, but must not be required to, issue requests for proposals or otherwise conduct market procurement activities in support of the showings required pursuant to this chapter.

(10) Notwithstanding any other provision in this section, an electrical utility serving customers in this state may seek a certificate of public convenience and necessity when building a major utility facility, as defined in Section 58-33-20(2), in another state but within the electrical utility's balancing area serving customers in South Carolina. In such a case, the provisions of Sections 58-33-120, 58-33-140, and 58-33-160(1)(b), (c), and (e) shall not apply, but all other requirements of this section affecting customers in this state shall apply. In addition:

(a) an applicant for a certificate shall file an application with the commission in such form as the commission may

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prescribe. The application must contain the following information:

\_\_\_\_\_ (i) a description of the location and of the major utility facility to be built;

\_\_\_\_\_ (ii) a summary of any studies which have been made by or for the applicant of the environmental impact of the major utility facility;

\_\_\_\_\_ (iii) a statement explaining the need for the major utility facility;

\_\_\_\_\_ (iv) any other information the applicant may consider relevant or as the commission may by regulation require. A copy of the report referred to in item (8)(b) must be filed with the commission, if ordered by the commission, and shall be available for public information.

\_\_\_\_\_ (b) The parties to a proceeding for a certificate pursuant to this section shall include:

\_\_\_\_\_ (i) the applicant;

\_\_\_\_\_ (ii) the Office of Regulatory Staff; and

\_\_\_\_\_ (iii) intervenors with standing as approved by the commission.

\_\_\_\_\_ (c) If the commission denies an application made pursuant to this section and the utility continues to build such major utility facility, the utility must allocate all costs and benefits associated with the major utility facility away from the utility's South Carolina customers.

Section 58-33-120. (1) An applicant for a certificate shall file an application with the commission, in such form as the commission may prescribe. The application must contain the following information:

(a) a description of the location and of the major utility facility to be built;

(b) a summary of any studies which have been made by or for applicant of the environmental impact of the facility;

(c) a statement explaining the need for the facility;  
and

(d) any other information as the applicant may consider relevant or as the commission may by regulation ~~or order~~ require. A copy of the study referred to in item (b) above shall be filed with the commission, if ordered, and shall be available for public information.

(2) Each application shall be accompanied by proof of service of a copy of the application on the Office of Regulatory Staff,



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the chief executive officer of each municipality, and the head of each state and local government agency, charged with the duty of protecting the environment or of planning land use, in the area in the county in which any portion of the facility is to be located. The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(3) Each application also must be accompanied by proof that public notice was given to persons residing in the municipalities entitled to receive notice under subsection (2) of this section, by the publication of a summary of the application, and the date on or about which it is to be filed, in newspapers of general circulation as will serve substantially to inform such persons of the application.

(4) Inadvertent failure of service on, or notice to, any of the municipalities, government agencies, or persons identified in subsections (2) and (3) of this section may be cured pursuant to orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies thereof, or both, upon such other persons, and file proof thereof, as the commission may deem appropriate.

(5) An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe. Notice of the application shall be given as set forth in subsections (2) and (3) of this section.

Section 58-33-130. (1) Upon the receipt of an application complying with Section 58-33-120, 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~~ complete the hearing and issue an order on the merits within one hundred eighty days of receipt of the application.

(2) The testimony presented at the hearing may be presented in writing or orally, - provided that the Commission may make rules designed to exclude repetitive, redundant or irrelevant testimony; however, all expert testimony must be prefiled with the Commission, with responsive expert testimony of non-applicants being received with enough time for the applicant to meaningfully respond, and in no case would expert testimony be filed less than twenty days before the hearing.

~~(2)~~(3) On an application for an amendment of a certificate, the Commission shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change

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in the facility would result in any significant increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility; provided, that the Public Service Commission shall forward a copy of the application to all parties upon the filing of an application.

Section 58-33-140. (1) The parties to a certification proceeding shall include:

(a) the applicant;

(b) the Office of Regulatory Staff, the Department of Health and Environmental Control, the Department of Natural Resources, and the Department of Parks, Recreation and Tourism;

(c) each municipality and government agency entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120 if it has filed with the commission a notice of intervention as a party within thirty days after the date it was served with a copy of the application; and

(d) any person residing in a municipality entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120, any domestic nonprofit organization, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interest, to represent commercial and industrial groups, or to promote the orderly development of the area in which the facility is to be located; or any other person, if such a person or organization has petitioned the commission for leave to intervene as a party, within thirty days after the date given in the published notice as the date for filing the application, and if the petition has been granted by the commission for good cause shown.

(2) Any person may make a limited appearance in the sixty days after the date given in the published notice as the date for filing the application. No person making a limited appearance shall be a party or shall have the right to present oral testimony or argument or cross-examine witnesses.

(3) The commission may, in extraordinary circumstances for good cause shown, and giving consideration to the need for timely start of construction of the facility, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency, person, or organization which is identified in paragraphs (b) or (c) of subsection (1) of this section, but which failed to file a timely notice of intervention or petition for leave to intervene, as the case may be.

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Section 58-33-150. A record shall be made of ~~the~~any hearing and of all testimony taken and the cross-examination thereon. ~~Upon request of a party, either before or after the decision, a State agency which proposes to or does require a condition to be included in the certificate as provided for in Section 58-33-160 shall furnish for the record all factual findings, documents, studies, rules, regulations, standards, or other documentation, supporting the condition.—The Commission may provide for the consolidation of the representation of parties having similar interests.~~

Section 58-33-160. (1) 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 of the construction, operation or maintenance of the major utility facility as the Commission may deem appropriate; such conditions shall be as determined by the applicable State agency having jurisdiction or authority under statutes, rules, regulations or standards promulgated thereunder, and the conditions shall become a part of the certificate. The Commission ~~may not~~must grant a certificate for the construction, operation and maintenance of a major utility facility, either as proposed or as modified by the Commission, ~~unless it shall find and determine if it finds and determines that the applicant has shown:~~

- (a) The basis of the need for the facility.
- (b) The nature of the probable environmental impact.
- (c) That the impact of the facility upon the

environment is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

(d) That the facilities will serve the interests of system economy and reliability, and in the case of generating facilities, will do so considering reasonably available alternatives and their associated costs, risks, and operating attributes.

(e) That there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations issued thereunder, including any allowable variance provisions therein, except that the Commission may refuse to apply any local law or local regulation if it finds that, as applied to the proposed facility, such law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

- (f) That public convenience and necessity require the

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construction of the facility.

(2) If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon such modification, provided that the municipalities and persons residing therein affected by the modification shall have been given reasonable notice.

(3) A copy of the decision and any ~~opinion order~~ shall be served by the Commission upon each party.

Section 58-33-170. In rendering a decision on an application for a certificate, the Commission shall issue an ~~opinion order~~ stating its reasons for the action taken. If the Commission has found that any regional or local law or regulation, which would be otherwise applicable, is unreasonably restrictive pursuant to paragraph (e) of subsection (1) of Section 58-33-160, it shall state in its ~~opinion order~~ the reasons therefor.

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

(b)(2) 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)(B) Available long-term power supply alternatives may include, but are 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)(C) The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any

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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)(D)~~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) The Public Service Authority may not ~~enter into a contract for the acquisition of~~ acquire a major utility facility 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.

(B)(1) In acting upon any petition by the Public Service Authority pursuant to this section, the Public Service Authority must prove by a preponderance of the evidence that the proposed transaction constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives. The commission shall consider any previous analysis performed pursuant to 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 be 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.

(C) Application for the approval of the commission

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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.

(D) 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.

(E) 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.

(F)(1) 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.

(2) The commission also may require compliance with any provision of Article 3, Chapter 33, Title 58 that the commission determines necessary to grant approval.

Section 58-33-190. (1) The Public Service Authority may not enter into a contract for the purchase of power with a duration longer than ten 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. This section does not apply to purchases of renewable power through a commission approved competitive procurement process.

(2) The commission shall consider any previous analysis performed pursuant to 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.

(3) The commission may not grant approval unless it shall find and determine that the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service

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Authority.

SECTION 23. Section 58-37-40 of the S.C. Code is 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 with one hundred thousand or more customer accounts and the Public Service Authority 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, electric utilities with less than one hundred thousand customer accounts, 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, electric utility with less than one hundred thousand customer accounts, 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. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy-five percent renewable energy or because it purchases wholesale load balancing generation services, then 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

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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 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 commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 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



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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.

(c) The Authority's integrated resource plan must provide the information required in Section 58-37-40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, 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, including Central Electric Power Cooperative, 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 of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal by the year 2050.

(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

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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; and

(j) a report addressing updates to the utility's transmission plan under the utility's open-access transmission tariff pursuant to the federal jurisdiction planning process. In this report, the utility shall describe if applicable planned transmission improvements may enable specific siting of new resources or provide expected and planned impacts to other resource interconnection constraints or operations of the systems. The utility shall also describe how it evaluated alternate transmission technologies when developing solutions for identified transmission needs for interconnecting resources.

(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 subject to subsection (A)(1) 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 procedural schedule shall include dates for completion of each phase of discovery, including discovery related to

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the integrated resource plan as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, and rebuttal testimony of the applicant. Except upon showing exceptional circumstances, all discovery shall be served in time to allow its completion, but not less than ten days prior to the hearing. 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 the 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 or the Public Service Authority'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.~~ In reviewing an integrated resource plan, the commission shall give due consideration as to the resources and actions necessary for the utility to fulfill compliance and reliability obligations pursuant to the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, the Southeastern Electric Reliability Council, and the Nuclear Regulatory Commission requirements, as well as environmental requirements applicable to resources serving customers in this state. Matters related to the scope and sufficiency of an electrical utility's demand-side plans and activities shall be considered exclusively in proceedings conducted pursuant to Section 58-37-20. In reviewing an integrated resource plan, the commission shall focus its review on the decisions which the applicant must make in the near term based on the triennial integrated resource plan under consideration at the time and shall approve a plan if it finds that the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, including the need for electric capacity and energy required to support economic development and industry

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retention in the electrical utility's or the Public Service Authority's service territory and to meet applicable planning reserve margins;

(b) consumer affordability and least reasonable cost, considering the resources needed to support economic development and industry retention, and other risks and benefits;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply;—and

(g) the efficiencies and optimum plans for any electrical utility system spanning state lines located within the electrical utility's or the Public Service Authority's balancing authority area; and

(h) other foreseeable conditions that the commission determines to be for the public's interest.

(3) In modifying or rejecting an electrical utility's or the Public Service Authority's integrated resource plan, the commission shall only require revisions that are reasonably anticipated to materially change resource procurement decisions to be made on the basis of the integrated resource plan under review. If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the 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 the Public Service Authority's revised filing, the Office of Regulatory Staff shall review the electrical utility's or the 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. An electrical utility shall retain the burden of proof to show

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that all of its investments and expenditures are reasonable and prudent when seeking cost recovery in rates.

(D)(1) An electrical utility and the Public Service Authority shall each submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility's or the 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 electrical utility's or the Public Service Authority's annual update and submit a report within ninety days 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 the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest within sixty days from the submittal of the Office of Regulatory Staff's report.

(E) Intervenors shall bear their own costs of participating in proceedings before the commission.

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

SECTION 24. Section 58-3-260 of the S.C. Code is amended to read:

Section 58-3-260. (A) For purposes of this section:

(1) "Proceeding" means a contested case, generic proceeding, or other matter to be adjudicated, decided, or arbitrated by the commission.

(2) "Person" means a party to a proceeding pending before the commission, a member of the Office of Regulatory Staff, a representative of a party to a proceeding pending before the commission, individuals, corporations, partnerships, limited liability companies, elected officials of state government, and other public and elected officials.

(3) "Communication" means the transmitting of information by any mode including, but not limited to, oral, written, or

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electronic.

(4) “Allowable ex parte communication briefing” means any communication that is conducted pursuant to the procedure outlined in subsection (C)(6) of this section.

(5) “Communication of supplemental legal citation” means the submission, subsequent to the submission of post-hearing briefs or proposed orders in a proceeding, of statutes, regulations, judicial or administrative decisions that are enacted, promulgated, or determined after the submission of post-hearing briefs or proposed orders.

(6) “Issue” means a specific request for relief or for other action from the commission in a pending or anticipated matter, legal or regulatory arguments, and policy considerations. “Issue” does not include:

(a) general information concerning the operations, administration, planning, projects, customer service, storms or storm response, accidents, outages, or investments of an entity regulated by the commission that is not confidential and proprietary and is available to the public; or

(b) any confidential information that affects energy security, such as physical or cybersecurity matters, provided that such information is also provided to the Executive Director of the Office of Regulatory Staff.

Any communication pursuant to subitems (a) or (b) that does not contain a specific request for relief or for other action from the commission in a pending matter or anticipated matter and is provided to the commission must be in writing and must be posted on the commission’s website with any confidential information redacted.

(B)(1) Except as otherwise provided herein or unless required for the disposition of ex parte matters specifically authorized by law, a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication.

(2) Commissioners must limit their consideration of

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matters before them to the record presented by the parties and may not rely on material not presented in the record by the parties.

(C) The following communications are exempt from the prohibitions of subsection (B) of this section:

(1) a communication concerning compliance with procedural requirements if the procedural matter is not an area of controversy in a proceeding;

(2) statements made by a commission employee who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding, where the statements are limited to providing publicly available information about pending proceedings;

(3) inquiries relating solely to the status of a proceeding, unless the inquiry: (a) states or implies a view as to the merits or outcome of the proceeding; (b) states or implies a preference for a particular party or which states why timing is important to a particular party; (c) indicates a view as to the date by which a proceeding should be resolved; or (d) is otherwise intended to address the merits or outcome or to influence the timing of a proceeding;

(4) a communication made by or to commission employees that concerns judicial review of a matter that has been decided by the commission and is no longer within the commission's jurisdiction; however, if the matter is remanded to the commission for further action, the provisions of this section shall apply during the period of the remand;

(5) where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized provided:

(a) the commissioner, hearing officer, or commission employee reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(b) the commissioner, hearing officer, or commission employee makes provision promptly to notify all other parties of the substance of the ex parte communication and, where possible, allows an opportunity to respond;

(6)(a) subject to the provisions of Chapter 4 of Title 30, communications, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding for the purposes of an allowable ex parte communication briefing if:

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~~(i) the Executive Director of the Office of Regulatory Staff or his designee attends the briefing and files a written certification, within seventy two hours of the briefing, attaching copies of all statements and all other matters filed by all persons pursuant to subsubitems (ii), (iii), and (iv) of this subsection, with the chief clerk of the commission that such briefing was conducted in compliance with the provisions of this section and that each party, person, commissioner, or commission employee present has complied with the reporting and certification requirements of subsubitems (ii), (iii), and (iv); and within twenty four hours of the submission by the executive director, the commission posts on its web site the written certification, statements, and other matters filed by the executive director;~~

~~(ii) each party, person, commissioner, and commission employee present files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing accurately summarizing the discussions in full and attaching copies of any written materials utilized, referenced, or distributed;~~

~~(iii) each party, person, commissioner, and commission employee present, within forty eight hours of the briefing, files a certification with the Executive Director of the Office of Regulatory Staff that~~

~~(i) in the course of such briefing, no commissioner or commission employee shall make any~~ne~~ commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding, was requested by any person or party nor shall any person request any commitment, predetermination, or prediction ~~wasto be~~ given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue;~~

~~(ii) the Executive Director of the Office of Regulatory Staff or his designee must attend the briefing and certify that the commissioners and commission employees complied with the provisions in subitem (i);~~

~~(iv)(iii) each commissioner or commission employee present at the allowable ex parte communication briefing grants to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar~~



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access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection (C)(6) of this section and files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing stating that the commissioner or commission employee will comply with this provision;

~~(v)(iv)~~ the commission ~~posts~~ must post on its web site, at least five business days prior to the proposed briefing, a notice of each request for an allowable ex parte communication briefing that includes the date and time of the proposed briefing, the name of the person or party who requested the briefing, the name of each commissioner and commission employee whom the person or party has requested to brief, and the subject matter to be discussed at the briefing;

(v) the commission must post on its web site within three business days after the briefing, all nonconfidential materials and documents provided to the commission as part of the ex parte briefing and a statement signed by the chief clerk of the commission that the provisions of this subsection have been followed, including the justification for actions taken to preserve the confidentiality of any confidential information provided to the commission;

(vi) the person or party initially seeking the briefing ~~requests~~ must request the briefing with sufficient notice, as required in subsubitem ~~(v)(iv)~~, to allow the initial briefing to be held at least twenty business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and the initial briefing must be held at least twenty business days prior to the hearing in the proceeding; and

(vii) any person or party desiring to have a briefing on the same or similar matter as provided for in subsubitem (vi) shall be entitled to request ~~requests~~ a briefing so long as the request is made with sufficient time for notice, as required in subsubitem ~~(v)(iv)~~, to allow the briefing to be held at least ten business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and any such briefing must be held at least ten business days prior to the hearing in the proceeding;

~~(b) any person or party may object to the attendance of the Executive Director of the Office of Regulatory Staff at an allowable ex parte communication briefing on the grounds of bias or~~

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~~a conflict of interest on the part of the executive director. Any such objection must be made in writing and must be filed with the executive director no later than twenty-four hours prior to the scheduled briefing. If the objecting person or party and the executive director agree upon a neutral person, that person shall serve in the executive director's stead and shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings. If the objecting person or party and the executive director cannot agree upon a neutral person, the objecting person or party shall petition the Administrative Law Court for the appointment of a neutral person to serve in the executive director's stead, and the petition shall be given priority over all other matters within the jurisdiction of the Administrative Law Court. In the petition, the objecting party shall set forth the specific grounds supporting the objecting person's or party's allegation of bias or conflict on the part of the executive director and shall generally describe the matters to be discussed at the briefing. It shall not be sufficient grounds that the executive director is or is likely to be a party to a proceeding. The executive director shall be given an opportunity to respond. Part of the executive director's response shall include recommendations as to the experience required of the person to act in his stead. Upon a showing of actual bias or conflict of interest, the administrative law judge shall designate a person to act in the executive director's stead and that person shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). Such person must have the expertise to act in the executive director's stead. The decision of the administrative law judge shall be considered interlocutory and not immediately appealable and may be appealed with the final order of the commission. The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings;~~

~~\_\_\_\_\_ (c) should the Executive Director of the Office of Regulatory Staff desire to conduct an allowable ex parte communication briefing, the chief clerk of the commission shall appoint a neutral person who shall serve in the executive director's stead and that person shall comply with the reporting and certification requirements of the Executive Director of the Office of Regulatory Staff contained in~~

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subsubitem (i). The Executive Director of the Office of Regulatory Staff shall comply with the requirements contained in subsubitems (ii) and (iii);

\_\_\_\_\_ (d)(b) nothing in subsection (C)(6) of this section requires any commissioner or commission employee to grant a request for an allowable ex parte communication briefing, except as provided in subsection (C)(6)(a)(iv)(iii) of this section;

(7) a communication of supplemental legal citation if the party files copies of such documents, without comment or argument, with the chief clerk of the commission and simultaneously provides copies to all parties of record;

(8) subject to the provisions of Chapter 4 of Title 30, communications between and among commissioners regarding matters pending before the commission; provided, further, that any commissioner, hearing officer, or commission employee may receive aid from commission employees if the commission employees providing aid do not:

(a) receive ex parte communications of a type that the commissioner, hearing officer, or commission employee would be prohibited from receiving; or

(b) furnish, augment, diminish, or modify the evidence in the record.

(D) If before serving in a proceeding, a commissioner, hearing officer, or commission employee receives an ex parte communication of a type that may not properly be received while serving, the commissioner, hearing officer, or commission employee must disclose the communication in the following manner: a commissioner, hearing officer, or a commission employee who receives an ex parte communication in violation of this section must promptly after receipt of the communication or, in the case of a communication prior to a filing, as soon as it is known to relate to a filing, place on the record of the matter all written and electronic communications received, all written and electronic responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner, hearing officer, or commission employee, as appropriate, received an ex parte communication and must advise all parties that these matters have been placed on the record. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. Parties affected by a violation may



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materials utilized, referenced, or distributed; and

(c) each party, person, commission, and commission employee who participated in the site visit or educational tour, within forty-eight hours of the site visit or educational tour, files a certification with the Executive Director of the Office of Regulatory Staff that no commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party, nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue.

(I) Subject to any privilege under Rule 501 of the South Carolina Rules of Evidence, any commissioner, hearing officer, commission employee, party, or any other person must report any wilful violation of this section on the part of a commissioner, hearing officer, or commission employee to the review committee.

(J) Any commissioner, hearing officer, commission employee, or person who wilfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars or imprisoned for not more than six months. If a commissioner wilfully communicates with any party or person or if any person or party wilfully communicates with a commissioner regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten business days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the commissioner shall be removed from office. If a hearing officer or commission employee wilfully communicates with any party or person or any party or person wilfully communicates with a hearing officer or commission employee regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the hearing officer or commission employee shall be terminated from employment by the commission. For purposes of this section: (1) "wilful" means an

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act done voluntarily and intentionally with the specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or disregard the law, and (2) a violation of the provisions of this section must be proved by clear and convincing evidence before a commissioner, hearing officer, or commission employee can be removed from office or terminated from employment.

SECTION 25. Section 58-3-270(E) of the S.C. Code is amended to read:

(E) The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court may issue an order tolling any deadlines imposed by any state statute for a decision by the commission on the proceeding that is the subject of the ex parte communication complaint but only to the extent that the allegations of the complaint are verified and if found to be true would indicate that the proceeding was prejudiced to the extent that the commission is unable to consider the matter in the proceeding impartially. The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court must conduct a hearing and must issue a decision within sixty days after the complaint is filed.

SECTION 26. The General Assembly hereby finds and declares that:

(1) the economic and financial well-being of South Carolina and its citizens depends upon continued economic development and industry retention and opportunities for job attraction and retention; and

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

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

(4) electrical utilities are critical economic development and industry retention partners for South Carolina by offering affordable power that has helped to attract jobs and associated development.

Title 58 of the S.C. Code is amended by adding:

[HJ]

CHAPTER 43

Economic Development Rates

Section 58-43-10. Unless otherwise specified, for purposes of this chapter:

(1) "Commission" means the Public Service Commission.

(2) "Contract" has the same meaning as the term is used in Section 58-27-980.

(3) "Electrical utility" has the same meaning as provided in Section 58-27-10(7).

(4) "Marginal cost" means the electrical utility's marginal cost for producing energy.

(5) "Qualifying customer" means either:

(a) an existing commercial or industrial customer with a combined firm and interruptible contract demand greater than 20 megawatts that agrees to a new or extended electric service contract with a term of five years or more; or

(b) a commercial or industrial customer that agrees to locate its operations in South Carolina or expands its existing establishment, and such location or expansion results in the minimum of:

(i) 500 kilowatts at one point of delivery;

(ii) fifty new employees; and

(iii) capital investment for \$400,000 following the electrical utility's approval for service.

(6) "Rate proposal" means a written document that identifies the rates, terms, and conditions for electric service offered by an electrical utility to a prospective customer.

(7) "Renewable energy facility" means a solar array or other facility constructed by or on behalf of a qualifying customer for the exclusive purpose of supplementing electrical power generation from a renewable energy source for its economic development location, expansion, or retention.

(8) "Transformational customer" means a commercial or industrial customer that agrees to locate its operations in South Carolina or expand its existing establishment, and such location or expansion results in the addition of a minimum of:

(a) 50 megawatts at one point of delivery;

(b) 500 new employees;

(c) capital investment of \$100,000,000 following the electrical utility's approval for service; and

(d) who is designated by the South Carolina Department of Commerce as a business which will bring substantial benefit to the

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economy of South Carolina and its citizens, such that it is in the public interest to have such transformational customer located in this State.

Section 58-43-20. (A) When considering whether the rates, terms, and conditions negotiated with economic development prospects are just and reasonable, the commission shall give full weight and consideration to the economic development benefits to the electrical utility's customers that result from prospective commercial or industrial entities locating or expanding their activities in South Carolina.

(B) Notwithstanding any other provision of law, an electrical utility may provide the South Carolina Department of Commerce or a prospective qualifying customer or transformational customer with a rate proposal containing terms and conditions to incentivize the prospective customer to make capital investments and employ additional workforce in the electrical utility's service territory. The rate proposal initially provided by an electrical utility may differ from the final contract, rate, terms, and conditions with the qualifying customer or transformational customer.

(C) An electrical utility may offer special rates, terms, and conditions to a qualifying customer or transformational customer, including rates that are lower than the rates that the customer otherwise would be charged. The agreement with the customer must be for a term not exceeding ten years and the electrical utility may offer the customer interruptible and real-time pricing options and riders for other clean energy attributes which may support the qualifying customer's or transformational customer's needs. However, rates for qualifying customers may not be lower than the electrical utility's marginal cost of providing service to the customer and rates for transformational customers may not be lower than twenty-five percent less than the electrical utility's marginal cost of providing service to the customer.

(D) Rates, terms, and conditions negotiated with qualifying and transformational customers shall be deemed just and reasonable if:

- (1) for qualifying customers, the terms of this section are met;
- (2) for transformational customers, the commission determines

that:

(a) the economic development rate offered significantly impacts the customer's decision to locate or expand in South Carolina;

(b) the financial value realized by the electrical utility's system from the transformational customer being on the electrical utility's system for ten years is greater than or equal to the financial value of the rate incentive given to the transformational customer;

(c) measures have been taken to avoid or reduce



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cross-customer class subsidization; and

(d) the consequences of offering the economic development rate are beneficial to the system as a whole considering all customer classes.

The commission must either approve or deny an application pursuant to this section within sixty days.

(E) Nothing in this chapter shall otherwise restrict the commission's authority to regulate rates and charges or review contracts entered into pursuant to this section or to otherwise supervise the operations of electrical utilities.

(F) The construction of a proposed renewable energy facility by or on behalf of a qualifying customer to support electric power generation at its location must comply with federal, state, and local laws and ordinances.

(G) Consistent with federal, state, and local laws and ordinances, the electrical utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying or transformational customer to support electrical power generation at its location where high-quality and reliable electric service are not adversely impacted.

(H) In the event a qualifying customer or transformational customer leaves this State or terminates its operations in this State during the ten-year contract period, such customer must reimburse the electrical utility and its customers the difference between standard rates and the rates paid during the term of the agreement between the electrical utility and its customers.

(I) For facilities designated as high priority sites by the South Carolina Department of Commerce, an electrical utility may enter into agreements to provide energy infrastructure to such sites if the South Carolina Department of Commerce determines it will increase the probability of attracting transformational customers to this State. Costs of such infrastructure shall be accounted for and recorded as an element of rate base for inclusion in general rates by the electrical utility provided the commission finds such costs are reasonable and prudent and shall not include a rate of return until the facilities are placed into service for a customer.

(J) An electrical utility shall not be required to adjust its cost of service in a rate proceeding as a result of a rate, agreement, or infrastructure provided pursuant to this section in any matter that would impute revenue at a level higher than received by the electrical utility from a qualifying customer or transformational customer or would

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otherwise reduce the electrical utility's revenue as a result of entering into contracts with qualifying customers or transformational customers pursuant to this section.

(K) If an electrical utility offers special rates, terms, and conditions to a qualifying customer or a transformational customer, any electrical utility in South Carolina may also offer all directly competing existing customers in its service territory in this State with similar special rates, terms, and conditions at the time the agreement is entered into with the qualifying customer or transformational customer to the extent the directly competing existing customer is able to substantiate its status as a directly competing existing customer. For purposes of this section, customers are "directly competing" if they make the same end-product, or offer the same service, for the same general group of customers. Customers that only produce component parts of the same end-product are not directly competing customers.

SECTION 27. Sections 58-33-310 and 58-33-320 of the S.C. Code are amended to read:

Section 58-33-310. Any party may appeal, in accordance with Section 1-23-380, from all or any portion of any final order or decision of the commission, including conditions of the certificate required by a state agency under Section 58-33-160 as provided by Section 58-27-2310. ~~Any appeals may be called up for trial out of their order by either party. Any final order on the merits issued pursuant to this chapter shall be immediately appealable to the Supreme Court of South Carolina, without petition for rehearing or reconsideration. The Supreme Court shall provide for expedited briefing and hearing of the appeal in preference to all other nonemergency matters.~~ The commission must not be a party to an appeal.

Section 58-33-320. Except as expressly set forth in Section 58-33-310, no court of this State shall have jurisdiction to hear or determine any issue, case, or controversy concerning any matter which was or could have been determined in a proceeding before the commission under this chapter or to stop or delay the construction, operation, or maintenance of a major utility facility, except to enforce compliance with this chapter or the provisions of a certificate issued hereunder, and any such action shall be brought only by the Office of Regulatory Staff. Provided, however, that subject to Section 58-33-175, nothing herein contained shall be construed to abrogate or suspend the right of any individual or corporation not a party to maintain any action which he might otherwise have been entitled.

SECTION 28. Chapter 4, Title 58 of the S.C. Code is amended by

adding:

Section 58-4-160. (A)(1) The Office of Regulatory Staff must conduct a study to evaluate the potential costs and benefits of the various administrator models for energy efficiency programs and other demand-side management programs funded by, or potentially funded by, electrical utilities in this State. This study must be conducted on each electrical utility in this State. For purposes of this section, administrator models for energy efficiency programs shall include the following models: utility administrator, state or government agency administrator, an independent third-party administrator, and a hybrid administrator.

(2) For purposes of this section only, “electrical utility” means an investor-owned electrical utility that serves more than 100,000 customers in this State.

(B) This study must consider which administrator model would most meaningfully improve programs offered by the electrical utility.

(C) The study must also evaluate which administrator model offers the best opportunities to increase cost and energy savings, improve the quality of services rendered, reduce ratepayer costs, or more effectively serve low-income customers, within a program portfolio that is cost effective overall, as compared to similar program administration by individual electrical utilities, or to increase the cost effectiveness of energy efficiency program portfolios. This study must consider, but is not limited to, the following:

(1) whether third-party administration subject to a pay for performance contract and independent third-party evaluation, measurement, and verification could reduce administrative costs, as compared to separate administration of energy efficiency programs by individual electrical utilities;

(2) whether a system benefit charge or other funding or financing mechanism would more efficiently, effectively, and fairly fund energy efficiency and other demand side management programs through an administrator;

(3) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced lower historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(4) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced high historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(5) the legal and practical implications of implementing the

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various administrator models for an electrical utility with a multistate balancing authority area;

(6) which administrator model could most enhance an electrical utility's delivery of nonenergy benefits, such as resiliency, reliability, health, economic development, industry retention, energy security, and pollution reduction; and

(7) which administrator model could most effectively pursue nonratepayer funding including, but not limited to, federal, state, or local governmental support, as a means of either reducing reliance of ratepayer funds or increasing the scope, reach, or effectiveness of energy efficiency and demand side management programs.

(D) This study must be conducted with public input from stakeholders through written comments and at least one public forum.

(E) The Office of Regulatory Staff is authorized to retain the services of an expert or consultant with expertise and experience in the successful implementation of energy efficiency administrator programs. The Office of Regulatory Staff is exempt from the procurement code for the purposes of retaining services for this study.

(F) The provisions of this section are subject to funding. However, the Office of Regulatory Staff must initiate the study within one year from receipt of necessary funding and complete its report within six months. Upon completion of this study, the Office of Regulatory Staff must provide its report to the General Assembly and the commission. This report may include a recommendation as to which administrator model should be established for each electrical utility, draft legislation, and requirements that should be established.

SECTION 29. Section 58-37-10 of the S.C. Code is amended to read:

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

(1) "Demand-side activity" or "demand-side management program" 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, through measures, 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 requirements pursuant to Section 58-37-40 and any process adopted by the commission. For electric cooperatives subject to the regulations of the Rural ~~Electrification Administration~~ Utilities Service, this definition must be interpreted in a manner consistent with any integrated resource planning process prescribed by Rural ~~Electrification Administration~~ Utilities Service regulations.

(3) "Cost-effective" means that the net present value of benefits of a program or portfolio exceeds the net present value of the costs of the program or portfolio. A cost-effective program or portfolio must pass any two of the following tests:

- (a) utility cost test;
- (b) total resource cost test;
- (c) participant cost test; or
- (d) ratepayer impact measure test.

In evaluating the cost-effectiveness of a program or portfolio, a utility or program administrator must present the results of all four tests. In calculating cost-effectiveness, a utility must use a standard utility practice for determining the percentage of energy savings that would or would not have been achieved through customer adoption of an efficiency behavior or technology without any incentive allowed pursuant to this chapter to install and utilize the technology as part of the associated demand-side management program. The utility must designate the expected useful life of the measure and evaluate the costs and benefits of the measures over their useful lives in the program application based on industry-accepted standards. Further, in calculating the cost-effectiveness, the commission must consider the efficiencies and scale of programs that are or may be available across a utility's balancing area, even if that balancing area extends outside of the state.

(4) "Demand-side management pilot program" means a demand-side management program that is of limited scope, cost, and duration and that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

SECTION 30. Section 58-37-20 of the S.C. Code is amended to read:

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Section 58-37-20. (A) The General Assembly declares that expanding utility investment in and customer access to cost-effective demand-side management programs will result in more efficient use of existing resources, promote lower energy costs, mitigate the increasing need for new generation and associated resources, and assist customers in managing their electricity usage to better control their electric bill, and is therefore in the public interest.

(B) The commission may approve any program filed by a public utility if the program is found to be cost-effective. Furthermore, the commission may, in its discretion, approve any program filed by a public utility that is not cost-effective, so long as the proposed demand-side management program is targeted to low-income customers, provided that the public utility's portfolio of demand-side management programs is cost-effective as a whole.

(C) The South Carolina Public Service Commission ~~may~~ must adopt procedures that ~~encourage~~ require electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to plan for and invest in all reasonable, prudent, and available energy efficiency and demand-side resources that are cost-effective energy efficient technologies and energy conservation programs in an amount to be determined by the commission. If an electrical utility fails to meet the requirements of this section as determined by the commission, the commission is authorized to appoint a third-party administrator to carry out the residential low-income energy efficiency duties pursuant to this section on behalf of the electrical utility if the commission determines that having such a third-party administrator is in the public interest and consistent with law. Upon notice and hearings that the commission may require, the commission may issue rules, regulations, or orders pursuant to this chapter to implement applicable programs and measures under this section. 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 system or local coincident peak 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-

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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.~~

(D) Each investor-owned electrical utility must submit an annual report to the commission describing the demand-side management programs implemented by the electrical utility in the previous year, provided the program has been operational for a reasonable period of time, as well as the results of such programs. The commission may require certain information including, but not limited to:

(1) achieved savings levels from the utility’s portfolio of programs in the prior year, reported as a percentage of the utility’s annual sales;

(2) program expenditures, including incentive payments;

(3) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(4) avoided costs and the techniques used to estimate those costs;

(5) estimated cost-effectiveness of the demand-side management programs;

(6) a description of economic benefits of the demand-side management programs;

(7) the number of customers eligible to opt-out of the electrical utility’s demand-side management programs, the percentage of those customers that opted-out in the previous year, and the annual sales associated with those opt-out customers; and

(8) any other information required by the commission.

(E) To ensure prudent investments by an electrical utility in energy efficiency and demand response, as compared to potential investments in generation, transmission, distribution, and other supply related utility equipment and resources, the commission must review each investor-owned electrical utility’s portfolio of demand-side management programs on at least a triennial basis to align the review of

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that utility's integrated resource plan pursuant to Section 58-37-40. The commission is authorized to order modifications to an electrical utility's demand-side management portfolio, including program budgets, if the commission determines that doing so in the public interest.

(F) The provisions of subsections (C), (D), and (E) do not apply to an electrical utility that serves less than 100,000 customers in this State.

SECTION 31. Section 58-37-30 of the S.C. Code is amended to read:

Section 58-37-30. (A) The South Carolina Public Service Commission must report annually to the General Assembly on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities, as defined in the Public Utilities Regulatory Policies Act of 1978, by electrical utilities and public utilities providing gas services subject to the jurisdiction of the Public Service Commission.

(B) Electric cooperatives providing resale or retail services, municipally-owned electric utilities, and the South Carolina Public Service Authority shall report annually to the State Energy Office on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities. For electric cooperatives, submission to the State Energy Office of a report on demand-side ~~activities~~management programs in a format complying with then current Rural ~~Electrification Administration~~Utilities Service regulations constitutes compliance with this subsection. An electric cooperative providing resale services may submit a report in conjunction with and on behalf of any electric cooperative which purchases electric power and energy from it. The State Energy Office must compile and submit this information annually to the General Assembly.

(C) The State Energy Office may provide forms for the reports required by this section to the Public Service Commission and to electric cooperatives, municipally-owned electric utilities, and the South Carolina Public Service Authority. The office shall strive to minimize differing formats for reports, taking into account the reporting requirements of other state and federal agencies. For electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission, the reporting form must be in a format acceptable to the commission.

SECTION 32.31. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-35. (A) An electrical utility may propose programs



and customer incentives to encourage or promote demand-side management programs whereby a customer uses a customer-sited distributed energy resource, as defined in Section 58-39-120(C), or combination of such resources, to: (1) reduce the customer's electric consumption or demand from the electric grid, or (2) beneficially shape the customer's electric consumption or demand in a manner that reduces the customer's contribution to the electrical utility's system or local coincidental peak demand, subject to the associated load to utility management for reliability or economic purposes, or reduce future electrical utility system costs to serve its customers. Programs authorized pursuant to this section may also include distributed energy resources that draw additional power from the electric grid including, but not limited to, electric heat pumps with programmable or utility controlled thermostats, electric heat pump water heaters controlled through utility programs, smart home panels, advanced inverters, and energy storage devices located on the customer's side of the meter, provided that any programs or customer incentives otherwise meet the requirements of this section. These programs may also include a combination of resources, including renewable energy microgrids, to provide economic benefits to the utility system or to help address specific transmission or distribution issues that would otherwise require significant capital investment.

(B) In evaluating a program or customer incentive proposed pursuant to this section to assure reasonableness, promotion of the public interest, and consistency with the objectives of Sections 58-27-845 and 58-37-20, the commission must apply the procedure approved pursuant to Section 58-37-20. An electrical utility must use standard utility practices for determining the percentage of customers that would or would not have adopted a distributed energy resource without any incentive allowed under this section to install and utilize the distributed energy resource as part of the associated demand-side management program. The electrical utility must designate the expected useful life of the distributed energy resource and evaluate the costs and benefits of demand-side measures over their useful lives in the program application based on industry-accepted standards. All initial program costs, benefits, and participation assumptions used in the electrical utility's cost-effectiveness evaluations must be reviewed by the commission to assure the electrical utility has presented a reasonable basis for its calculation. Electrical utilities must update the cost-effectiveness analysis based on the actual program costs, benefits, and participation as soon as practicably possible based on standard evaluation, measurement, and verification protocols, and the electrical utility's cost recovery must

be reconciled accordingly.

(C) For demand-side programs or customer incentives proposed in this section, the electrical utility may recover costs through the procedures in Section 58-37-20. The prohibition in Section 58-40-20(I) against recovery of lost revenues associated with distributed energy resources pursuant to Chapter 39, Title 58 is inapplicable to recovery of net lost revenues associated with a distributed energy resource that is installed as a result of a demand-side program incentive pursuant to this section or Section 58-37-20.

(D) The commission may approve any program filed pursuant to this section if the commission finds the program to be cost effective pursuant to Section 58-37-10(3). For any demand-side programs or customer incentives submitted under this section with projected annual customer incentive amounts less than five million dollars per year for each of the first two program years, the commission must issue an order as expeditiously as practicable on the written submissions of the electrical utility but may require an evidentiary hearing where novel or complex issues of fact require special review by the commission. Nothing in this section prevents the commission from ordering an electrical utility to modify or terminate a program approved pursuant to this section based on the results of standard evaluation, measurement, and verification protocols.

(E) The Energy Office must develop and publish materials intended to inform and educate the public regarding programs available to a customer pursuant to this section. The Energy Office must maintain a list of approved vendors who are qualified and in good standing to provide services associated with these programs.

SECTION 33. Section 58-37-50 of the S.C. Code is amended to read:

Section 58-37-50. (A) As used in this section:

(1) "Electricity provider" means an electric cooperative, an investor-owned electric utility, the South Carolina Public Service Authority, or a municipality or municipal board or commission of public works that owns and operates an electric utility system.

(2) "Natural gas provider" means an investor-owned natural gas utility or publicly owned natural gas provider.

(3) "Meter conservation charge" means the charge placed on a customer's account by which electricity providers and natural gas providers recover the costs, including financing costs, of energy efficiency and conservation measures.

(4) "Notice of meter conservation charge" means the written notice by which subsequent purchasers or tenants will be given

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notice that they will be required to pay a meter conservation charge.

(5) “Customer” means a homeowner or tenant receiving electricity or natural gas as a retail customer.

(6) “Community action agency” means a nonprofit eleemosynary corporation created pursuant to Chapter 45, Title 43 providing, among other things, weatherization services to a homeowner or tenant.

(B) Electricity providers and natural gas providers may enter into written agreements with customers and landlords of customers for the financing of the purchase price and installation costs of energy efficiency and conservation measures. These agreements may provide that the costs must be recovered by a meter conservation charge on the customer's electricity or natural gas account, provided that the electricity providers and natural gas providers comply with the provisions of this section. A failure to pay the meter conservation charge may be treated by the electricity provider or natural gas provider as a failure to pay the electricity or natural gas account, and the electricity provider or natural gas provider may disconnect electricity or natural gas service for nonpayment of the meter conservation charge, provided the electricity provider or natural gas provider complies with the provisions of Article 25, Chapter 31, Title 5; Article 17, Chapter 11, Title 6; Article 17, Chapter 49, Title 33; Article 11, Chapter 5, Title 58; Article 21, Chapter 27, Title 58; Article 5, Chapter 31, Title 58; and any applicable rules, regulations, or ordinances relating to disconnections.

(C) Any agreement permitted by subsection (B) must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one-year treasury bills as published by the Federal Reserve ~~at the time the agreement is entered~~ on the first business day of the calendar year in which the agreement is entered. An electrical utility entering into such an agreement whose rates are regulated by the commission must fix the interest rate over the term of the agreement to not exceed such utility's weighted average cost of equity and long-term debt as most recently approved by the commission at the time the agreement is entered. Any indebtedness created under the provisions of this section may be paid in full at any time before it is due without penalty.

(D) An electricity provider or natural gas provider may recover the costs, including financing costs, of these measures from its members or customers directly benefiting from the installation of the

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energy efficiency and conservation measures. Recovery may be through a meter conservation charge to the account of the member or customer and any such charge must be shown by a separate line item on the account. A utility entering into such agreement whose rates are regulated by the commission shall recover all reasonable and prudent incremental costs incurred to implement agreements for financing and installing energy-efficiency and conservation measures in base rates. Incremental costs may include, but are not limited to, billing system upgrades, overhead, incremental labor, and all other expenses properly considered to be associated with ensuring the ongoing premise bill savings are realized from offering during the terms of such agreements.

(E) An electricity provider or natural gas provider shall assume no liability for the installation, operation, or maintenance of energy efficiency and conservation measures when the measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of the measures, and no action may be maintained against the electricity provider or natural gas provider relating to the failure of the measures. An electricity provider or natural gas provider shall assume no liability for energy audits performed by third parties and shall provide no warranty relating to any energy audit done by any third party. Nothing in this section may be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy efficiency and conservation measures.

(F) Before entering into an agreement contemplated by this section, the electricity provider or natural gas provider shall cause to be performed an energy audit on the residence considered for the energy efficiency measures. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated. An agreement entered following completion of an energy audit shall specify the measures to be completed and the contractor responsible for completion of the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work. Upon completion of the work, it must be inspected by an energy auditor certified by the

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Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be held in escrow by the electricity provider or natural gas provider.

(G) An electricity provider or natural gas provider that enters into an agreement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electricity provider or natural gas provider gives record notice that the residence is subject to the agreement. Notice must be given, at the expense of the filer, by filing a notice of meter conservation charge with the appropriate office for the county in which the residence is located, pursuant to Section 30-5-10. The notice of meter conservation charge does not constitute a lien on the property but is intended to give a purchaser of the residence notice that the residence is subject to a meter conservation charge. Notice is deemed to have been given if a search of the property records of the county discloses the existence of the charge and informs a prospective purchaser: (1) how to ascertain the amount of the charge and the length of time it is expected to remain in effect, and (2) of his obligation to notify a tenant if the purchaser leases the property as provided in subsection (H)(3).

(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in item (3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider

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may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section 27-40-240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one-half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Title 37 of the South Carolina Code of Laws.

(J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing functions under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).

(K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied ~~at before~~ the time the measures are taken. ~~The procedures allowed by this section may not be used with respect to a new residence or a residence under construction.~~ The provisions of this section may not be used to implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment, or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment, unless (1) the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider, or (2) an electric appliance used for home heating is being replaced by an appliance that operates primarily on electricity but which has the capability of also operating on a secondary fuel source.

(L) Electricity providers or natural gas providers may offer their customers other types of financing agreements available by law, instead of the option established in this section, for the types of energy efficiency or conservation measures described in this section.

(M)(1) An electricity provider or natural gas provider

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must not obtain funding from the following federal programs to provide loans provided by this section:

(a) 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;

(b) 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.

(2) Nothing in this section changes the exclusive administration of these programs by local community action agencies through the South Carolina Governor's Office of Economic Opportunity pursuant to its authority pursuant to the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(3) Nothing in this subsection prevents a customer or member of an electricity provider or natural gas provider from obtaining services under the Low Income Home Energy Assistance Program or the Weatherization Assistance Program.

SECTION 34. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-215. (A) The Public Service Authority, in consultation with the South Carolina Department of Commerce, shall have the authority to serve as an anchor subscriber of incremental natural gas and pipeline capacity needed in the future by the State to recruit new transformational projects or to assist in the expansion of transformational projects as identified by the South Carolina Department of Commerce.

(B) The Public Service Authority is authorized to act on behalf of

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the State, to aid natural gas pipeline construction companies and natural gas shippers in obtaining approval for incremental capacity and delivery to this State to support economic growth. The Public Service Authority is authorized to demonstrate market support in required filings including, but not limited to, binding precedent agreements, and to make other attestations in furtherance of satisfaction of the application requirements of federal law and regulations. This subsection is subject to available funding.

(C) There is hereby established the “Energy Investment and Economic Development Fund” to be held in an operating account by the Public Service Authority to further the provisions of this section and other energy investment needs. Subject to the approval of the Joint Bond Review Committee, the Energy Investment and Economic Development Fund may be funded by the amount required to be paid to the State pursuant to Section 58-31-110 less the annual costs billed by the Office of Regulatory Staff and the South Carolina Public Service Commission. The South Carolina Department of Commerce shall report, at least once annually and no later than September first, to the Joint Bond Review Committee as to the level and need for funding to advance the provisions of this section. Unless sufficient funding is allocated to the Energy Investment and Economic Development Fund and such action is approved by the Joint Bond Review Committee, the Public Service Authority shall not execute a binding precedent agreement on behalf of the State pursuant to this section. In no event shall the costs associated with serving as an anchor affect the rates and charges for electric or water service for the Public Service Authority’s customers.

(D) The South Carolina Department of Commerce, with input from the Public Service Authority, is authorized to resell natural gas pipeline capacity rights procured pursuant to this section subject to a plan approved by the Joint Bond Review Committee. The proceeds of any sales of natural gas pipeline capacity rights must be deposited in the general fund of the State.

(E) When the Public Service Authority enters into a binding agreement on behalf of the State, the Office of Regulatory Staff, in representing the public interest and in collaboration with the Department of Commerce, is directed to make such filings supporting required federal regulatory approvals.

(F) The provisions of this section do not alter, amend, expand, or reduce, any other authority granted to the Public Service Authority in this chapter to enter into any agreements necessary for the provision of electric service.



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SECTION 35.A. Section 58-3-70 of the S.C. Code is amended to read:

Section 58-3-70. ~~The chairman and members of the commission shall receive annual salaries payable in the same manner as the salaries of other state officers are paid. The commission members shall receive a salary in an amount equal to ninety-seven and one-half percent of the salary fixed for Associate Justices of the Supreme Court.~~ Each commissioner must devote full time to his duties as a commissioner and must not engage in any other employment, business, profession, or vocation during the normal business hours of the commission.

B. This section is effective beginning with the fiscal year immediately following the Public Service Commission election for the reconstituted three-member commission.

SECTION 36. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-50. (A) The General Assembly encourages electrical utilities to explore cost effective, efficient bulk power solutions, particularly during periods of constrained capacity, for non-residential customers with electric loads in excess of 25 megawatts.

(B)(1) An electrical utility may file a proposed agreement regarding co-located resources between the utility and a customer with an electric load in excess of 25 megawatts for the commission's consideration. The proposed agreement must contain at least one of the following requirements:

(a) co-location of electric generation or storage on the customer's property provides bulk system benefits for all customers and benefits for the host customer;

(b) co-location of renewable electric generation resources on the customer's property provides bulk system benefits for all customers and the renewable attributes associated with such generation can be allocated to the host customer;

(c) co-location of electric generation on the customer's property would result in permitting and siting efficiencies to enable electric generation to come online earlier than otherwise could occur; or

(d) co-location of electric generation resources on the customer's property could be utilized as resiliency resources to serve the electric grid in times of need.

(2) In the filing with the commission, the electrical utility must include a description of:

(a) how the resource helps to serve resource needs identified in the electrical utility's most recent integrated resource plan filing;

(b) credit and ratepayer protections included in the agreement;

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(c) the contractual terms that preserves the electrical utility's operation of resources; and

(d) how costs and benefits associated with the agreement would be allocated among the customer who is a party to the agreement and other customers in the electrical utility's balancing area.

(C) The commission must give a proposed agreement filed pursuant to this section expedited consideration. The commission may approve the proposed agreement if the commission finds:

(1) the proposed program was voluntarily agreed upon by the electrical utility and the customer,

(2) the filing meets the requirements of this section; and

(3) the proposed agreement is in the public interest.

(D) For purposes of this section, "co-located" or "co-location" includes electric generation and associated facilities on a customer's site as well as any location where the connection to the electrical utility is in such proximity to the customer's site that enables resilient power supply to support the development of power supply to meet the customer's needs. An agreement regarding co-location may also include potential co-ownership of the electric generation and associate facilities by the electrical utility and the customer.

(E) Notwithstanding opportunities for co-located resources, the General Assembly also encourages electrical utilities to continue to facilitate service to new electric loads in excess of 50 megawatts and to require operational and financial performance requirements for such customers to receive service pursuant to tariffed electrical utility rates or contracts approved by the commission, and to ensure appropriate protections and risk mitigation for the protection of the electrical utility's existing customers. The electrical utility may meet these objectives by:

(1) filing form contracts with the commission; (2) tariff offerings or services regulations filed with the commission; or (3) performance and credit policies reviewed by the Office of Regulatory Staff.

SECTION 37. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-15. (A) As of July 1, 2025, there is hereby created within the Office of Regulatory Staff a division that must be separate and apart from all other divisions within the Office of Regulatory Staff and titled the Division of Consumer Advocacy.

(B) The duties, functions, and responsibilities of the Division of Consumer Advocacy in the Department of Consumer Affairs related to appearances before the commission are hereby transferred to the Division of Consumer Advocacy in the Office of Regulatory Staff on

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July 1, 2025. All appropriations and full-time equivalent positions of the Division of Consumer Advocacy in the Department of Consumer Affairs that are devoted solely to advocating on behalf of consumers before the commission shall be transferred to the Office of Regulatory Staff on July 1, 2025.

(C) The Division of Consumer Advocacy shall have the ability to represent residential utility consumers in matters before the commission and appellate courts.

(D) The Division of Consumer Advocacy shall consist of a Residential Utility Consumer Advocate and other personnel as may be necessary in order for the division to represent residential utility consumers in matters before the commission and appellate courts. The Residential Utility Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of eight years practice experience and must be appointed in the same manner as the Executive Director of the Office of Regulatory Staff pursuant to the procedure set forth in Section 58-4-30.

(E) To the extent necessary to carry out its responsibilities, the Division of Consumer Advocacy may hire third-party consultants as the Residential Utility Consumer Advocate may consider necessary to assist the Division of Consumer Advocacy in its participation in proceedings before the commission and appellate courts.

(F) The Division of Consumer Advocacy is exempt from the State Procurement Code in the hiring of third-party consultants. However, the Division of Consumer Advocacy must not hire the same third-party consultant hired by the Office of Regulatory Staff or the commission.

(G) The Office of Regulatory Staff shall provide such administrative support to the Division of Consumer Advocacy as the division may require in the performance of its duties including financial management, human resources management, information technology, procurement services, and logistical support. The Office of Regulatory Staff shall not provide to the Division of Consumer Advocacy, and the Division of Consumer Advocacy shall not require of the Office Regulatory Staff, legal representation, technical, economic, or auditing assistance regarding any matter pending before the Public Service Commission when providing such assistance would create a conflict of interest.

SECTION 38. (A) To foster economic development and future jobs in this State resulting from the supply-chains associated with the same while supporting the significant and growing energy and capacity needs of the State, enhance grid resiliency, and maintain

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reliability, the General Assembly finds that the State of South Carolina should take steps necessary to encourage the development of a diverse mix of long-lead, clean generation resources that may include advanced small modular reactors, biomass as defined in Section 12-63-20(B)(2) of the S.C. Code, hydrogen-capable resources, and the Carolina Long Bay Project, and should preserve the option of efficiency development of such long-lead resources with timely actions to establish or maintain eligibility for or capture available tax or other financial incentives or address operational needs.

(B) For an electrical utility to capture available tax or other financial or operational incentives for South Carolina ratepayers in a timely manner, the commission may find that actions by an electrical utility in pursuit of the directives in Section 58-37-35(A) are in the public interest, provided that the commission determines that such proposed actions are in the public interest and reasonably balance economic development and industry retention benefits, capacity expansion benefits, resource adequacy and diversification, emissions reduction levels, and potential risks, costs, and benefits to ratepayers and otherwise comply with all other legal requirements applicable to the electrical utility's proposed action. For the South Carolina Public Service Authority, the Office of Regulatory Staff and the Public Service Authority's board of directors shall apply the same principles described in this subsection in evaluating and approving actions proposed by the management of the Public Service Authority to achieve the objectives of this section.

SECTION 39. All reasonable and prudent costs incurred by an electrical utility necessary to effectuate this act, that are not precluded from recovery by other provisions of this act and that do not have a recovery mechanism otherwise specified in this act or established by state law, shall be deferred for commission consideration of recovery in any proceeding initiated pursuant to Section 58-27-870, and allowed for recovery if the commission determines the costs are reasonable and prudent.

SECTION 40. An electrical utility, including the Public Service Authority, may not offer a tariff, rider, or rate proposal for a reduced electric rate, nor any other form of incentive that would result in a reduced electric rate to a data center until July 1, 2034. For purposes of this section, "data center" means any facility that primarily contains electronic equipment used to process, store, and transmit digital information which may be (a) a free-standing structure; or (b) a facility within a larger structure, that uses environmental control equipment to

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maintain the proper conditions for the operation of electronic equipment.

SECTION 41. Section 58-40-10(F) of the S.C. Code is amended to read:

(F) “Renewable energy resource” means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources as defined in Section 12-63-20(B)(2).

SECTION 42. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the regulation of electrical utilities, the provision of electricity, and economic development as clearly enumerated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 43. 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 44. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Rep. BLACKWELL explained the amendment.

Rep. WETMORE demanded the yeas and nays which were taken, resulting as follows:

Yeas 81; Nays 32

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Those who voted in the affirmative are:

Anderson	Atkinson	Bailey
Bannister	Beach	Blackwell
Bradley	Brewer	Brittain
Burns	Bustos	Carter
Chapman	Chumley	Collins
Connell	B. J. Cox	B. L. Cox
Crawford	Cromer	Davis
Elliott	Felder	Forrest
Gagnon	Gibson	Gilliam
Guest	Guffey	Haddon
Hager	Hardee	Hartnett
Hayes	Hewitt	Hiott
Hixon	Howard	Jefferson
J. E. Johnson	S. Jones	Jordan
Kilmartin	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	Magnuson
May	McCrary	McGinnis
Mitchell	T. Moore	A. M. Morgan
T. A. Morgan	Murphy	Neese
B. Newton	W. Newton	O'Neal
Oremus	Pace	Pedalino
Pope	Robbins	Sandifer
Schuessler	G. M. Smith	M. M. Smith
Taylor	Thayer	Vaughan
Weeks	West	White
Whitmire	Willis	Yow

**Total--81**

Those who voted in the negative are:

Alexander	Ballentine	Bamberg
Bauer	Bernstein	Calhoon
Clyburn	Cobb-Hunter	Dillard
Garvin	Gilliard	Harris
Hart	Henderson-Myers	Hosey
J. L. Johnson	W. Jones	King
McCabe	McDaniel	Moss
Ott	Pendarvis	Rose
Rutherford	Spann-Wilder	Stavrinakis

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Trantham                      Wetmore                      Wheeler  
Williams                      Wooten

**Total--32**

So, the amendment was adopted.

Rep. BLACKWELL explained the Bill.

The question recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 107; Nays 5

Those who voted in the affirmative are:

Alexander	Anderson	Atkinson
Bailey	Ballentine	Bannister
Bauer	Beach	Bernstein
Blackwell	Bradley	Brewer
Brittain	Burns	Bustos
Calhoon	Carter	Caskey
Chapman	Chumley	Clyburn
Collins	Connell	B. J. Cox
B. L. Cox	Crawford	Cromer
Davis	Dillard	Elliott
Erickson	Felder	Forrest
Gagnon	Gibson	Gilliam
Gilliard	Guest	Guffey
Haddon	Hager	Hardee
Hart	Hartnett	Hayes
Henderson-Myers	Herbkersman	Hewitt
Hiott	Hixon	Hosey
Howard	Jefferson	J. E. Johnson
S. Jones	W. Jones	Jordan
Kilmartin	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	Magnuson
May	McCabe	McCrary
McGinnis	Mitchell	T. Moore
A. M. Morgan	T. A. Morgan	Moss
Murphy	Neese	B. Newton

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W. Newton	O'Neal	Oremus
Ott	Pace	Pedalino
Pendarvis	Robbins	Rose
Rutherford	Sandifer	Schuessler
G. M. Smith	M. M. Smith	Spann-Wilder
Stavrinakis	Taylor	Thayer
Trantham	Vaughan	Weeks
West	Wetmore	White
Whitmire	Williams	Willis
Wooten	Yow	

**Total--107**

Those who voted in the negative are:

Bamberg	Cobb-Hunter	Garvin
J. L. Johnson	King	

**Total--5**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 1031--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1031 -- Senator Cromer: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING CHAPTER 11 OF TITLE 35, RELATING TO ANTI-MONEY LAUNDERING, SO AS TO INCORPORATE THE UNIFORM MONEY SERVICES ACT, TO PROTECT THE PUBLIC FROM FINANCIAL CRIME, STANDARDIZE THE TYPES OF ACTIVITIES THAT ARE SUBJECT TO LICENSING, AND MODERNIZE SAFETY AND SOUNDNESS REQUIREMENTS TO ENSURE FUNDS ARE PROTECTED IN AN ENVIRONMENT THAT SUPPORTS INNOVATIVE AND COMPETITIVE BUSINESS PRACTICES.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 1031 (LC-1031.HA0005H), which was adopted:

Amend the bill, after the title but before the enacting words, by adding:  
Whereas, South Carolina is achieving remarkable economic

[HJ]



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development success which is bringing jobs and prosperity to its citizens; and

Whereas, from January to December 2023, the state announced total capital investments of 9.22 billion dollars and over 14,000 jobs, the second largest amount in state history; and

Whereas, in 2022, the state announced 120 projects creating over 14,000 new jobs with 10.27 billion dollars in new capital investment, the largest amount in state history; and

Whereas, since 2017, the state has announced over 36.4 billion dollars in new investments and 86,378 new jobs; and

Whereas, according to the U.S. Census Bureau, South Carolina led the nation in population growth in 2023; and

Whereas, the rapidly expanding population and record breaking economic development successes necessitate a strategic and forward-thinking approach to developing new energy infrastructure capable of meeting the energy needs of South Carolina's residents and supporting the continued prosperity of the state; and

Whereas, sustaining this success in economic development requires an electric system that can grow and modernize to meet the demands that a prosperous and developing economy places on it; and

Whereas, the South Carolina General Assembly recognizes that the convergence of escalating population growth, record-breaking economic success, and the aging of existing energy infrastructure has created a critical juncture, demanding immediate and decisive action to avert an impending energy crisis; and

Whereas, the urgency of addressing this situation is underscored by the interconnected challenges of meeting surging energy demand, ensuring grid reliability, and fortifying the state's resilience against potential disruptions, thereby compelling the imperative for the timely construction of new energy plants to safeguard the continued well-being and economic vitality of South Carolina; and

Whereas, in light of these facts, it is important that the General Assembly take action to ensure that generation and transmission providers are able to plan, site, and construct new and replacement generation and transmission resources in a timely and cost-effective manner, utilizing procedures that are fair, prompt, efficient, and guided by an informed Public Service Commission; and

Whereas, the General Assembly has determined that certain aspects of the current regulatory structure in South Carolina can be revised to reduce the cost, delay, and uncertainty of planning, siting, and constructing new generation and transmission resources serving

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customers in this state; and

Whereas, the General Assembly further finds that the current circumstances present a unique opportunity to replace or limit reliance on the Williams Generating Station operated by Dominion Energy South Carolina, Inc. (“DESC”) in Bushy Park, South Carolina; and the Winyah Generating Station operated South Carolina Public Service Authority (“SCPSA”) in Georgetown, South Carolina, and perhaps other units as well, through a joint venture between these utilities; and

Whereas, DESC owns the site of the retired Canadys coal units in Colleton County (the “Canadys site”) which represent an environmentally well characterized brownfield site with unique attributes, including electric transmission infrastructure on site, proximity to a major switching station interconnecting the DESC and SCPSA transmission systems serving coastal South Carolina, and reasonable proximity to natural gas supplies which can be accessed through existing natural gas rights of way; and

Whereas, modern combined cycle units provide dispatchability and operating flexibility that will allow DESC and SCPSA systems to continue to add large amounts of flexible resources to their systems without jeopardizing cost-efficient and reliable service to customers; and

Whereas, the integrated resource planning by both utilities consistently indicates the need for and benefit of additional combined cycle natural gas resources under multiple planning scenarios; and

Whereas, by pursuing replacement resources as a joint project, DESC and SCPSA can build larger, more fuel efficient, lower emitting units, and can reduce the capital cost per MW of these units by as much as 25% or more compared to building single, stand-alone units sized to meet their individual needs alone while at the same time reducing the environmental and land-use impact of the natural gas pipeline and transmission infrastructure required to support separate units; and

Whereas, the joint project can provide a unique opportunity to anchor the expansion of natural gas pipelines serving certain coastal counties of South Carolina where economic development is currently hampered by the lack of such supplies, thereby increasing jobs, prosperity and public welfare in those areas and can do so with minimal environmental disruption; and

Whereas, in light of the unique circumstances presented by the shared needs of DESC and SCPSA for replacement generation in the Charleston and Georgetown areas, the unique benefits of a partnership between them for this purpose, and the unique benefits of the Canadys site as the location for a joint resource, the General Assembly finds that these

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circumstances support amending the enabling act of the SCPSA to authorize it in a joint venture to develop and share in the output of one or more combined cycle natural gas units to be located at the Canadys site and encourages the utility to seek, as soon as practicable, a certificate as defined under the terms of the Utility Facility Siting and Environmental Protection Act for DESC to construct and operate combined cycle natural gas units to be located at the Canadys site; and

Whereas, Duke Energy Carolinas Bad Creek Pumped Storage facility, including ongoing uprates, is an approximate 1,640 MW energy storage facility located in Oconee County South Carolina; and

Whereas, Duke Energy Carolina has identified the opportunity to approximately double the output of the Bad Creek Pumped Storage facility by constructing new pump turbines, generators, and a new powerhouse; and

Whereas, by increasing the generating capacity at the Bad Creek facility, Duke Energy Carolinas can approximately double its existing peak hourly storage capacity; and

Whereas, in light of the unique circumstances presented by the potential expansion of Duke Energy Carolinas' energy storage capacity by expanding the Bad Creek facility without construction of a new reservoir, and considering the unique benefits for customers served by Duke Energy Carolinas' electrical system such an expansion represents, the General Assembly encourages the utility to complete evaluations related to expanding the Bad Creek facility to double its output; and

Whereas, in light of the unique circumstances presented in the plans of Duke Energy Carolinas LLC and Duke Energy Progress LLC to secure approximately 7,000 MW of natural gas generation facilities for the benefit of their customers in South Carolina, the General Assembly encourages the utilities to undertake such activities as may be necessary to pursue and facilitate additional natural gas generation to serve its customers in this state; and

Whereas, the South Carolina General Assembly recognizes the potential for substantial economic and environmental benefits through the implementation of robust energy efficiency and demand side management initiatives; and

Whereas, investing in energy efficiency and demand side management initiatives not only reduces overall energy consumption but also alleviates the strain on existing electric generation infrastructure, leading to cost savings for consumers, businesses, and the state; and

Whereas, the promotion of energy efficiency and demand side management initiatives offers a prudent and cost effective approach to

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address increasing energy demands, thereby lessening the necessity for construction of new electric generation facilities in the future, and contributing to a more sustainable and resilient energy future for South Carolina; and

Whereas, the South Carolina General Assembly acknowledges the transformative potential of advanced nuclear generation, such as small modular reactors (SMRs), understanding that their compact size addresses significant challenges associated with traditional nuclear power, offering the promise of expedited and cost-effective plant construction, coupled with enhanced safety in operational practices, along with offering reliable carbon-free energy generation that can operate nearly 24/7; and

Whereas, the South Carolina General Assembly recognizes the strategic importance of investigating in and pursuing advanced nuclear technologies such as small modular reactors and molten salt reactors at this time, understanding that proactive engagement in research and development positions the state to capitalize on future opportunities when SMRs become economically and technologically viable; and

Whereas, the SC Nexus for Advanced Resilient Energy consortium, developed in collaboration with our research universities, technical colleges, state agencies, the Savannah River National Laboratory, economic development non-profits, and private businesses, won the U.S. Department of Commerce's Economic Development Administration's designation as one of the Regional Technology and Innovation Hubs; and

Whereas, the South Carolina General Assembly recognizes establishing an Energy Policy Institute is a pivotal step towards supporting the efforts of SC Nexus and for guiding informed decision making for the state's energy future; and

Whereas, understanding the complexity of energy issues, the establishment of an Energy Policy Institute is essential to equipping the state with the necessary expertise and resources to make well informed choices, fostering a comprehensive understanding of intricate energy matters; and

Whereas, SC Nexus will assist the state as a global leader in advanced energy by developing, testing, and deploying exportable energy technologies and understanding that new manufactures of those technologies can locate their operations at a place of their choosing, an Energy Policy Institute is integral to positioning the state strategically for economic development success by ensuring the economic benefits resulting from SC Nexus remain in South Carolina, and ensuring that

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energy policies align with the state's growth objectives and policy goals, while simultaneously safeguarding the interests of ratepayers and promoting a sustainable and resilient energy landscape; and

Whereas, it is imperative to direct the Office of Regulatory Staff (ORS) to conduct a comprehensive energy assessment and formulate a ten year energy action plan not only to identify additional actions to take over the next decade to address the critical need to ensure an adequate and reliable power supply but also to serve as a proactive forum to thoroughly examine unresolved issues vital to achieving economic development success within the dynamic and evolving energy sector; and

Whereas, the South Carolina General Assembly determines that comprehensive legislation is needed to promote the development of new and reliable energy infrastructure resources, fostering resilient and reliable energy infrastructure critical to the economic success of the state of South Carolina. Now, therefore,

Amend the bill further, by striking all after the enacting words and inserting:

SECTION 1. Chapter 11, Title 35 of the S.C. Code is amended to read:

CHAPTER 11

South Carolina ~~Anti-Money Laundering~~ Uniform Money Services Act  
Article 1

General Provisions

Section 35-11-100. This chapter may be cited as the "South Carolina ~~Anti-Money Laundering~~ Uniform Money Services Act".

Section 35-11-105. As used in this chapter:

(1) "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

~~(1)~~(2) "Applicant" means a person that files an application for a license pursuant to this act.

~~(2)~~(3) "Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee.

~~(3) "Bank" means an institution organized under federal or state law which:~~

~~(a) accepts demand deposits or deposits that the depositor may use for payment to third parties and which engages in the business of making commercial loans; or~~

~~(b) engages in credit card operations and maintains~~

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~~only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than one hundred thousand dollars, and does not engage in the business of making commercial loans.~~

(4) “Average daily money transmission liability” means the amount of the licensee’s outstanding money transmission obligations in this State at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this chapter for any licensee required to do so, the given period of time must be the quarters ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first.

(5) “Bank Secrecy Act” means the Bank Secrecy Act, 31 U.S.C. Section 5311, et seq., and its implementing regulations, as amended and recodified from time to time.

(6) “Closed loop stored value” means stored value that is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

~~(4)(7)~~ “Commissioner” means the South Carolina Attorney General.

~~(5)(8)(a)~~ “Control” means:

~~(a)(i)~~ ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

~~(b)(ii)~~ the power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee; or

~~(c)(iii)~~ the power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(b)(i) A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least ten percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(ii) A person presumed to exercise a controlling influence as defined by this subitem can rebut the presumption of control if the person is a passive investor.

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(c) For purposes of determining the percentage of a person controlled by any other person, the person's interest must be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such person's home.

~~(6)~~(9) "Currency exchange" means receipt of revenues from the exchange of money of one government for money of another government.

(10) "Eligible rating" means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating modifiers such as "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. Long-term credit ratings are considered to be eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

(11) "Eligible rating service" means any Nationally Recognized Statistical Rating Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission, and any other organization designated by the Commissioner by rule or order.

~~(7)~~(12) "Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

(13) "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company organized under the laws of the United States or any state of the United States, when such bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company has federally insured deposits.

(14) "In this State" means at a physical location within this State for a transaction requested in person. For a transaction requested electronically or by phone, the provider of the money transmission may determine if the person requesting the transaction is "in this State" by relying on other information provided by the person

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regarding the location of the individual's residential address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have that indicate such location including, but not limited, to an address associated with an account.

(15) "Individual" means a natural person.

(16) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee.

~~(8)~~(17) "Licensee" means a person licensed pursuant to this act.

(18) "Material litigation" means litigation, that according to United States generally accepted accounting principles, is significant to a person's financial health and would be required to be disclosed in the person's annual audited financial statements, report to shareholders, or similar records.

~~(9)~~(19) "Monetary value" means a medium of exchange, whether or not redeemable in money.

~~(10)~~(20) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

~~(11)~~(21) "Money services" means money transmission or currency exchange.

~~(12)~~(22)(a) "Money transmission" means any of the following:

(i) selling or issuing payment instruments to a person located in this State;

(ii) selling or issuing stored value to a person located in this State; or

(iii) receiving money ~~or monetary value~~ for transmission in this State.

(b) The term does not include the provision solely of delivery, online or telecommunications services, or network access.

(23) "MSB accredited state" means a state agency that is accredited by the Conference of State Bank Supervisors and Money Transmitter Regulators Association for money transmission licensing and supervision.

(24) "Multistate licensing process" means any agreement entered into by and among state regulators relating to



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coordinated processing of applications for money transmission licenses, applications for the acquisition of control of a licensee, control determinations, or notice and information requirements for a change of key individuals.

(25) “NMLS” means the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

~~(13)~~(26) “Outstanding money transmission obligation”, with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee is established and extinguished in accordance with applicable state law and means:

(a) any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(b) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender or escheated in accordance with applicable abandoned property laws.

(c) For purposes of this subsection, “in the United States” includes, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country.

(27) “Passive investor” means a person that:

(a) does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a person in control of a licensee;

(b) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;

(c) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and



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~~(18)~~(33) “State” means a state, ~~of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory, or insular possession subject to the jurisdiction of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.~~

~~(19)~~(34) “Stored value” means monetary value ~~that is evidenced by an electronic record representing a claim against the issuer~~ evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. The term includes, but is not limited to, “prepaid access” as defined by 31 C.F.R. Section 1010.100, as amended or recodified from time to time. Notwithstanding the foregoing, the term “stored value” does not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

(35) “Tangible net worth” means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

~~(20)~~(36) “Unsafe or unsound practice” means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee’s assets, or otherwise materially prejudices the interests of its customers.

Section 35-11-110. (A) This chapter does not apply to:

(1) the United States or a department, agency, or instrumentality ~~of the United States~~ thereof, or its agent;

(2) money transmission by the United States Postal Service or by ~~a contractor on behalf an agent~~ an agent of the United States Postal Service;

(3) a state, county, city, or ~~another any other~~ governmental agency or governmental subdivision or instrumentality of a state, or its agent;

(4) ~~a bank, bank holding company, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. Section 1861-1867 (Supp. V 1999), or corporation organized under the Edge Act, 12 U.S.C. Section 611-633 (1994 & Supp. V 1999), under the laws of a state or the United States if it does not issue, sell, or provide payment instruments or stored value through an authorized delegate who is not such a person~~ a federally insured depository financial institution.

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bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to the International Bank Act, 12 U.S.C. Section 3102, as amended or recodified from time to time, corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. Sections 1861-1867, as amended or recodified from time to time, or corporation organized under the Edge Act, 12 U.S.C. Sections 611-633, as amended or recodified from time to time;

(5) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality ~~of the United States~~ thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality ~~of a state~~ thereof;

(6) a board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. Section 1-25 ~~(1994)~~ as amended or recodified from time to time, or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for a board of trade;

(7) a registered futures commission merchant under the federal commodities laws to the extent of its operation as a futures commission merchant;

~~(8) a person who provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from that registration granted under the federal securities laws to the extent of its operation as a provider of clearance or settlement services;~~

~~(9)~~(8) an operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons ~~excluded~~ exempted by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers;

~~(10)~~(9) a person registered as a securities broker-dealer under federal or state securities laws to the extent of his operation as a securities broker-dealer; ~~or~~

~~(11)~~(10) ~~a credit union regulated and insured by the National Credit Union Association~~ an individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements of this chapter when acting within the scope of employment and under the supervision of the licensee, authorized delegate, or exempted person as an employee and not as an independent

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contractor;

(11) a person expressly appointed as a third-party service provider to, or agent of, an entity exempt under Section 35-11-110 (A)(4), solely to the extent that:

(a) such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(b) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent;

(12) a person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(a) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(b) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(c) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee;

(13) a person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(a) is properly licensed or exempt from licensing requirements under this chapter;

(b) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(c) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient; or

(14) a person exempt by regulation or order if the Commissioner finds such exemption to be in the public interest and that

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the regulation of such person is not necessary for the purposes of this chapter.

(15) payroll processing services.

(B) The Commissioner may require that a person claiming to be exempt from licensing pursuant to this section provide information and documentation to the Commissioner demonstrating that it qualifies for any claimed exemption.

Article 2

Money Transmission Licenses

Section 35-11-200. (A) A person may not engage in the business of money transmission or advertise, solicit, or hold himself out as providing money transmission unless the person is:

(1) licensed under this ~~chapter or approved to engage in money transmission pursuant to Section 35-11-210~~ article;

(2) an authorized delegate of a person licensed pursuant to this article; or

(3) ~~an authorized delegate of a person approved to engage in money transmission pursuant to Section 35-11-210~~ exempted under Section 35-11-110.

(B) A license issued pursuant to this chapter is not transferable or assignable.

Section 35-11-205. (A) ~~In this section, “material litigation” means litigation that according to generally accepted accounting principles is significant to an applicant’s or a licensee’s financial health and would be required to be disclosed in the applicant’s or licensee’s annual audited financial statements, report to shareholders, or similar records.~~

~~(B) A person applying for a license pursuant to this article shall do so in a form and in a medium prescribed by the commissioner~~ Commissioner. Each form must contain content as set forth by regulation, order, instruction, or procedure of the Commissioner and may be changed or updated by the Commissioner in accordance with applicable law in order to carry out the purposes of this chapter and maintain consistency with NMLS licensing standards and practices. The application must state or contain:

(1) the legal name, residential and business addresses of the applicant, and any fictitious or trade name used by the applicant in conducting its business;

(2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application;

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(3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this State;

(4) a list of the applicant's proposed authorized delegates and the locations in this State where the applicant and the applicant's authorized delegates propose to engage in money transmission or provide other money services;

(5) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state;

(6) information concerning a bankruptcy or receivership proceeding affecting the licensee or a person in control of a licensee;

(7) a sample form of contract for authorized delegates, if applicable, ~~and~~;

~~(8) a sample form of payment instrument or instrument upon which stored value is recorded, if applicable;~~

~~(8)(9) the name and address of any bank~~ federally insured depository financial institution through which the applicant's payment instruments and stored value will be paid applicant plans to conduct money transmission; and

~~(9) a description of the source of money and credit to be used by the applicant to provide money services; and~~

(10) other information the commissioner reasonably requires with respect to the applicant.

~~(C)~~ (B) If an applicant is a corporation, limited liability company, partnership, or other legal entity, the applicant also shall provide:

(1) the date of the applicant's incorporation or formation and state or country of incorporation or formation;

(2) if applicable, a certificate of good standing from this State and the state or country in which the applicant is incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including a parent entity or subsidiary of the applicant, and whether a parent entity or subsidiary is publicly traded;

(4) the legal name, a fictitious or trade name, all business and residential addresses, and the employment, in the ten-year period next preceding the submission of the application of each executive officer, manager, director, or person who has control of the

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applicant;

(5) a list of criminal convictions and material litigation in which an executive officer, a manager, director, or person in control of, the applicant has been involved in the ten-year period next preceding the submission of the application;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application or, if determined to be acceptable to the Commissioner, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the Commissioner;

~~(7) a copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application~~ certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;

(8) if the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission pursuant to Section 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. Section 78m ~~(1994 & Supp. V 1999)~~ as amended or recodified from time to time;

(9) if the applicant is a wholly owned subsidiary of  
a:

(a) corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed pursuant to Section 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. Section 78m ~~(1994 & Supp. V 1999)~~ as amended or recodified from time to time; or

(b) corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

~~(10) if the applicant has a registered agent in this State,~~ the name and address of the applicant's registered agent in this State; and

(11) other information the ~~commissioner~~ Commissioner reasonably requires with respect to the applicant.

~~(D)(C)~~ A nonrefundable application fee of one thousand five hundred dollars and a license fee of ~~seven hundred fifty one~~ thousand six hundred dollars must accompany an application for a license pursuant to this article. The license fee must be refunded if the



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application is denied.

~~(E)~~(D) The ~~commissioner~~ Commissioner may waive one or more requirements of subsections ~~(B)~~(A) and ~~(C)~~(B) or permit an applicant to submit other information in lieu of the required information.

Section 35-11-210. (A) ~~A person who is licensed to engage in money transmission in at least one other state, with the approval of the commissioner and in accordance with this section, may engage in money transmission and currency exchange in this State without being licensed pursuant to Section 35-11-205 if the:~~

~~\_\_\_\_\_ (1) state in which the person is licensed has enacted the Uniform Money Services Act or the commissioner determines that the money transmission laws of that state are substantially similar to those imposed by the law of this State;~~

~~\_\_\_\_\_ (2) person submits to, and in the form required by, the commissioner:~~

~~\_\_\_\_\_ (a) in a record, an application for approval to engage in money transmission and currency exchange in this State without being licensed pursuant to Section 35-11-205;~~

~~\_\_\_\_\_ (b) a nonrefundable fee of one thousand dollars;~~  
and

~~\_\_\_\_\_ (c) a certification of license history in the other state.~~

~~\_\_\_\_\_ (B) When an application for approval pursuant this section is complete, the commissioner shall promptly notify the applicant in a record, of the date on which the request was determined to be complete and:~~

~~\_\_\_\_\_ (1) the commissioner shall approve or deny the request within one hundred twenty days after that date; or~~

~~\_\_\_\_\_ (2) if the request is not approved or denied within one hundred twenty days after that date the:~~

~~\_\_\_\_\_ (a) request is approved; and~~

~~\_\_\_\_\_ (b) approval takes effect as of the first business day after expiration of the one hundred twenty day period.~~

~~\_\_\_\_\_ (C) A person who engages in money transmission and currency exchange in this State pursuant to this section shall comply with the requirements of, and is subject to the sanctions provided in this chapter, as if the person were licensed pursuant to Section 35-11-220. Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual shall furnish to the Commissioner through NMLS the following items:~~

~~\_\_\_\_\_ (1) the individual's fingerprints for submission to the~~

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Federal Bureau of Investigation and the Commissioner for purposes of a national criminal history background check unless the person currently resides outside of the United States and has resided outside of the United States for the last ten years; and

(2) personal history and experience in a form and in a medium prescribed by the Commissioner, to obtain the following:

(a) an independent credit report from a consumer reporting agency unless the individual does not have a Social Security number, in which case, this requirement must be waived;

(b) information related to any criminal convictions or pending charges; and

(c) information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

(B) If the individual has resided outside of the United States at any time in the last ten years, the individual also shall provide an investigative background report prepared by an independent search firm that meets the following requirements:

(1) at a minimum, the search firm shall:

(a) demonstrate that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report; and

(b) not be affiliated with or have an interest with the individual it is researching;

(2) at a minimum, the investigative background report must be written in the English language and must contain the following:

(a) if available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(b) criminal records information for the past ten years including, but not limited to, felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(c) employment history;

(d) media history, including an electronic search

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of national and local publications, wire services, and business applications; and

(e) financial services-related regulatory history including, but not limited to, money transmission, securities, banking, insurance, and mortgage-related industries.

~~Section 35-11-215. (A) Except as otherwise provided in subsection (B),~~An applicant for a money transmission license must provide, and a licensee at all times must maintain, security consisting of a surety bond, letter of credit, or other similar security in a form acceptable to the commissioner.~~Commissioner in the amount of fifty thousand dollars plus ten thousand dollars for each location, not exceeding a total addition of two hundred fifty thousand dollars, must accompany an application for a license.~~

~~(B) Security must be in a form satisfactory to the commissioner and payable to the State for the benefit of a claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to money transmission.~~The amount of the required security must be:

(1) the greater of one hundred thousand dollars or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this State calculated for the most recently completed three-month period, up to a maximum of five hundred thousand dollars; or

(2) in the event that the licensee's tangible net worth exceeds ten percent of total assets, the licensee shall maintain a surety bond of one hundred thousand dollars.

~~(C) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant against a licensee may maintain an action on the bond, or the commissioner may maintain an action on behalf of the claimant. A licensee that maintains a bond in the maximum amount provided for in Section 35-11-215(B)(1) or (2) may not be required to calculate its average daily money transmission liability for purposes of this section.~~

~~(D) A surety bond must cover claims for so long as the commissioner specifies, but for at least five years after the licensee ceases to provide money services in this State. However, the commissioner may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's payment instruments or stored value obligations outstanding in this State is reduced. The commissioner may permit a licensee to substitute another form of security acceptable to the~~

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~~commissioner for the security effective at the time the licensee ceases to provide money services in this State. A licensee may exceed the maximum required bond amount pursuant to Section 35-11-605(A)(5).~~

~~(E) In lieu of the security prescribed in this section, an applicant for a license or a licensee may provide security in a form prescribed by the commissioner.~~

~~(F) The commissioner may increase the amount of security required to a maximum of one million dollars if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant criteria.~~

Section 35-11-220. (A) When an application for an original license is filed and considered complete pursuant to this article, the ~~commissioner~~ Commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The ~~commissioner~~ Commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The ~~commissioner~~ Commissioner shall issue a license to an applicant pursuant to this article if the ~~commissioner~~ Commissioner finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Sections 35-11-205, 35-11-215, and 35-11-230; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

(B) When an application for an original license pursuant to this article is complete, the ~~commissioner~~ Commissioner promptly shall notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the ~~commissioner~~ Commissioner shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date the:

(a) application is considered approved; and

(b) ~~commissioner~~ Commissioner shall issue the license pursuant to this article, to take effect as of the first business day after expiration of the one hundred twenty-day period.

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(C) ~~The commissioner~~ Commissioner may for good cause extend the application period.

(D) A determination by the Commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items, including the Criminal Background Check response from the FBI, and addresses all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(E) The Commissioner shall issue a formal written notice of the denial of a license application. The Commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the commissioner ~~Commissioner~~ pursuant to this article ~~section~~ may appeal ~~request a hearing, within thirty days after receipt of the written notice of the denial, from the denial and request a hearing pursuant to Section 35-11-710.~~

(F) The initial license term begins on the day the application is approved. The license expires on December thirty-first of the year in which the license term began, unless the initial license date is between November first and December thirty-first, in which instance the initial license term runs through December thirty-first of the following year.

Section 35-11-225. (A) ~~A person licensed pursuant to this article shall pay an annual renewal fee of seven hundred fifty dollars no later than thirty days before the anniversary of the issuance of the license or, if the last day is not a business day, on the next business day.~~ license issued under this chapter must be renewed annually.

(1) An annual renewal fee of one thousand six hundred dollars must be paid no more than sixty days before the license expiration.

(2) The renewal term must be for a period of one year and begins on January first of each year after the initial license term and expires on December thirty-first of the year the renewal term begins.

(B) A licensee under this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the ~~commissioner~~ Commissioner. The renewal report must state or contain:

~~(1) a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's~~

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most recent audited consolidated annual financial statement;

~~\_\_\_\_\_ (2) the number and monetary amount of payment instruments and stored value sold by the licensee in this State which have not been included in a renewal report, and the monetary amount of payment instruments and stored value currently outstanding;~~

~~\_\_\_\_\_ (3) a description of each material change in information submitted by the licensee in its original license application which has not been reported to the ~~commissioner~~ Commissioner on a required report;~~

~~\_\_\_\_\_ (4) a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments pursuant to the requirements set forth in Sections 35-11-600 and 35-11-605;~~

~~\_\_\_\_\_ (5) proof that the licensee continues to maintain adequate security as required by Section 35-11-215; and~~

~~\_\_\_\_\_ (6) a list of the locations in this State where the licensee or an authorized delegate of the licensee engages in money transmission or provides other money services.~~

~~(C) If a licensee does not file a renewal report or pay its renewal fee by the renewal date or an extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the commissioner sends the notice of suspension. The suspension must be lifted if, within twenty days after its license is suspended, the licensee:~~

~~\_\_\_\_\_ (1) files the report and pays the renewal fee; and~~

~~\_\_\_\_\_ (2) pays one hundred dollars for each day after suspension that the commissioner did not receive the renewal report and the renewal fee.~~

~~\_\_\_\_\_ (D) The ~~commissioner~~ Commissioner for good cause may grant an extension of the renewal date.~~

~~\_\_\_\_\_ (D) The Commissioner is authorized and encouraged to utilize NMLS to process license renewals provided that such functionality is consistent with this section.~~

~~Section 35-11-230. A person licensed pursuant to this article shall maintain a net worth of at least two hundred fifty thousand dollars determined in accordance with generally accepted accounting principles. (A) A licensee under this chapter shall maintain at all times a tangible net worth of the greater of one hundred thousand dollars or three percent of total assets for the first one hundred million dollars, two~~

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percent of additional assets for one hundred million dollars to one billion dollars, and one half of one percent of additional assets for over one billion dollars.

(B) Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to Section 35-11-205(B)(6).

(C) Notwithstanding the foregoing provisions of this section, the Commissioner shall have the authority, for good cause shown, to exempt, in whole or in part, from the requirements of this section any applicant or licensee.

Section 35-11-235. (A) If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the Commissioner may suspend or revoke the licensee's license pursuant to Section 35-11-700 or 35-11-710 or other applicable state law for such suspension or revocation.

(B) An applicant for a money transmission license must demonstrate that it meets or will meet, and a money transmission licensee must at all times meet, the requirements in Sections 35-11-215, 35-11-230 and 35-11-600 of this chapter.

### Article 3

#### Currency Exchange Licenses

Section 35-11-300. (A) A person may not engage in currency exchange or advertise, solicit, or hold himself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person is:

(1) licensed pursuant to this ~~chapter~~ article;

(2) licensed for money transmission pursuant to Article 2, ~~or approved to engage in money transmission pursuant to Section 35-11-210; or~~

(3) an authorized delegate of a person licensed pursuant to Article 2; ~~or~~

~~(4) an authorized delegate of a person approved to engage in money transmission pursuant to Section 35-11-210.~~

(B) A license issued pursuant to this chapter is not transferable or assignable.

Section 35-11-305. (A) A person applying for a license pursuant to this article shall do so in a form and in a medium prescribed by the ~~commissioner~~ Commissioner. The application shall state or contain:

(1) the legal name and residential and business addresses of the applicant, if the applicant is an individual or, if the

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applicant is not an individual, the name of each partner, executive officer, manager, and director;

(2) the location of the principal office of the applicant;

(3) complete addresses of other locations in this State where the applicant proposes to engage in currency exchange, including all limited stations and mobile locations; and

~~(4) a description of the source of money and credit to be used by the applicant to engage in currency exchange; and~~

~~(5)(4)~~ other information the ~~commissioner~~ Commissioner reasonably requires with respect to the applicant, but not more than the ~~commissioner~~ Commissioner may require pursuant to Article 2.

(B) A nonrefundable application fee of one thousand five hundred dollars and a license fee of ~~seven hundred fifty~~ one thousand six hundred dollars must accompany an application for a license pursuant to this article. The license fee must be refunded if the application is denied.

~~(C) The Commissioner may waive one or more requirements of subsection (A) or permit an applicant to submit other information in lieu of the required information.~~

Section 35-11-310. (A) When a person applies for a license pursuant to this article, the ~~commissioner~~ Commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The ~~commissioner~~ Commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The ~~commissioner~~ Commissioner shall issue a license to an applicant pursuant to this article if the ~~commissioner~~ Commissioner finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Section 35-11-305; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.

(B) When an application for an original license pursuant to this article is complete, the ~~commissioner~~ Commissioner promptly shall notify the applicant in a record of the date on which the



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application was determined to be complete and:

(1) the ~~commissioner~~ Commissioner shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date the:

(a) application is considered approved; and

(b) ~~commissioner~~ Commissioner shall issue the license pursuant to this article, to take effect as of the first business day after expiration of the period.

(C) The ~~commissioner~~ Commissioner may for good cause extend the application period.

(D) The Commissioner shall issue a formal written notice of the denial of a license. The Commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied a license by the ~~commissioner~~ Commissioner pursuant to this article may ~~appeal~~ request a hearing, within thirty days after receipt of the written notice of the denial pursuant to Section 35-11-710, ~~from the denial and request a hearing.~~

~~Section 35-11-315. (A) A person licensed pursuant to this article shall pay a biennial renewal fee of seven hundred fifty dollars no later than thirty days before each biennial anniversary of the issuance of the license or, if the last day is not a business day, on the next business day. All licenses issued pursuant to this article expire on December thirty-first of each year. A person licensed pursuant to this article shall pay a renewal fee of one thousand six hundred dollars on or before December first of each year.~~

(B) A person licensed pursuant to this article shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the ~~commissioner~~ Commissioner. The renewal report must state or contain a:

(1) description of each material change in information submitted by the licensee in its original license application which has not been reported to the ~~commissioner~~ Commissioner on a required report; and

(2) list of the locations in this State where the licensee or an authorized delegate of the licensee engages in currency exchange, including limited stations and mobile locations.

~~(C) If a licensee does not file a renewal report and pay its renewal fee by the renewal date or an extension of time granted by the commissioner, the commissioner shall send the licensee a notice of~~

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~~suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the commissioner sends the notice of suspension.~~

~~(D)~~(C) The ~~commissioner~~ Commissioner for good cause may grant an extension of the renewal date.

Article 4

Authorized Delegates

Section 35-11-400. (A) In this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

~~(B) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter. For such contracts initiated on or after the effective date of this act, the licensee shall provide to each authorized delegate information sufficient for compliance with this chapter. Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee must:~~

~~(1) adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;~~

~~(2) enter into a written contract that complies with Section 35-11-400(D); and~~

~~(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.~~

~~(C) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate. An authorized delegate must operate in full compliance with this chapter.~~

~~(D) If a license is suspended or revoked or a licensee does not renew its license, the commissioner shall notify all authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee. The written contract required by Section 35-11-400(B) must be signed by the licensee and the authorized delegate and, at a minimum, must:~~

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(1) appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

(2) set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties;

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act and the USA Patriot Act;

(4) require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;

(5) impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;

(6) require the authorized delegate to prepare and maintain records as required by this chapter or regulations implementing this chapter, or as reasonably requested by the Commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the Commissioner;

(8) state that the licensee is subject to regulation by the Commissioner and that, as part of that regulation, the Commissioner may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under Section 35-11-400(B)(1).

~~(E) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage in pursuant to Article 2 of this chapter. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If the licensee's license is suspended, revoked, surrendered, or expired, the licensee must, within five business days, provide documentation to the Commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the Commissioner of the suspension, revocation, surrender, or expiration of a license. Upon suspension, revocation, surrender, or expiration of a license, applicable authorized delegates shall immediately cease to provide money transmission as an~~

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authorized delegate of the licensee.

(F) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If any authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.

~~(F)~~(G) An authorized delegate may not use a subdelegate to conduct money services on behalf of a licensee.

Section 35-11-405. A person may not provide money services on behalf of a person not licensed pursuant to this chapter or not exempt pursuant to Section 35-11-110. A person that engages in that activity provides money services to the same extent as if the person were a licensee and is jointly and severally liable with the unlicensed or nonexempt person.

Article 5

Examinations, Reports, and Records

Section 35-11-500. (A) The ~~commissioner~~ Commissioner may conduct an ~~annual~~ examination or investigation of a licensee or of any of the licensee's authorized delegates ~~on a forty-five day notice in a record to the licensee~~ or otherwise take independent action authorized by this chapter or by a rule or order issued under this chapter as reasonably necessary or appropriate to administer and enforce this chapter, regulations implementing this chapter, and other applicable law, including the Bank Secrecy Act and the USA Patriot Act. The Commissioner may:

(1) conduct an examination either on-site or off-site as the Commissioner may reasonably require;

(2) conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

(3) accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the Commissioner; and

(4) summon and examine under oath a key individual or employee of a licensee or authorized delegate and require the person to produce records regarding any matter related to the

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condition and business of the licensee or authorized delegate.

~~(B) The commissioner may examine a licensee or its authorized delegate, at any time, without notice, if the commissioner has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a rule adopted or an order issued pursuant to this chapter. A licensee or authorized delegate shall provide, and the Commissioner shall have full and complete access to, all records the Commissioner may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the Commissioner, provided, the Commissioner may utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this section.~~

~~(C) If the commissioner-Commissioner concludes that an on-site examination is necessary pursuant to subsection (A), the licensee shall pay the reasonable cost of the examination.~~

~~(D) Information obtained during an examination pursuant to this chapter may be disclosed only as provided in Section 35-11-530.~~

~~Section 35-11-505. The commissioner may consult and cooperate with other state money services regulators in enforcing and administering this act. They jointly may pursue examinations and take other official action that they are otherwise empowered to take. (A) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the Commissioner is authorized and encouraged to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof for all licensees that hold licenses in this State and other states. As a participant in multistate supervision, the Commissioner shall:~~

~~\_\_\_\_\_ (1) cooperate, coordinate, and share information with other state and federal regulators in accordance with Section 35-11-530;~~

~~\_\_\_\_\_ (2) enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations the membership of which is made up of state or federal governmental agencies; and~~

~~\_\_\_\_\_ (3) cooperate, coordinate, and share information with organizations the membership of which is made up of state or federal governmental agencies, provided that the organizations agree in~~

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writing to maintain the confidentiality and security of the shared information in accordance with Section 35-11-530.

(B) The Commissioner may not waive, and nothing in this section constitutes a waiver of, the Commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter, or a rule adopted or order issued under this chapter, to enforce compliance with applicable state or federal law.

(C) A joint examination or investigation, or acceptance of an examination or investigation report, does not waive an examination assessment provided for in this chapter.

Section 35-11-510. (A) A licensee shall file with the ~~commissioner~~ Commissioner within fifteen business days any material changes in information provided in a licensee's application as prescribed by the ~~commissioner~~ Commissioner.

~~(B) A licensee shall file with the commissioner within forty five days after the end of each fiscal quarter a current list of all authorized delegates, and locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate. Each licensee shall submit a report of authorized delegates within forty-five days of the end of the calendar quarter. The Commissioner is authorized and encouraged to utilize NMLS for the submission of the report required by this subsection provided that such functionality is consistent with the requirements of this subsection. The authorized delegate report must include, at a minimum, each authorized delegate's:~~

- ~~(1) company legal name;~~
- ~~(2) taxpayer employer identification number;~~
- ~~(3) principal provider identifier;~~
- ~~(4) physical address;~~
- ~~(5) mailing address;~~
- ~~(6) any business conducted in other states;~~
- ~~(7) any fictitious or trade name;~~
- ~~(8) contact person's name, phone number, and email;~~
- ~~(9) start date as licensee's authorized delegate;~~
- ~~(10) end date acting as licensee's authorized delegate, if applicable; and~~
- ~~(11) any other information the Commissioner reasonably requires with respect to the authorized delegate.~~

~~(C) A licensee shall file a report with the ~~commissioner~~ Commissioner within ~~three one~~ business ~~days~~ day after the licensee has~~

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reason to know of the occurrence of any of the following events:

(1) the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110 ~~(1994 & Supp. V 1999)~~as amended or recodified from time to time, for bankruptcy or reorganization;

(2) the filing of a petition by or against the licensee for receivership, the commencement of another judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors; or

(3) the commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed;

~~(4) the cancellation or other impairment of the licensee's bond or other security;~~

(D) A licensee shall file a report with the Commissioner within three business days after the licensee has reason to know of the occurrence of any of the following events:

~~(5)~~(1) a charge or conviction of the licensee or of an executive officer, manager, director, a key individual or person in control of the licensee for a felony; or

~~(6)~~(2) a charge or conviction of an authorized delegate for a felony.

(E) Each licensee shall submit a report of condition within forty-five days of the end of the calendar quarter, or within any extended time as the Commissioner may prescribe. The report of condition must include:

(1) financial information at the licensee level;

(2) nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

(3) permissible investments report;

(4) transaction destination country reporting for money received for transmission, if applicable, which shall only be included in a report of condition submitted within forty-five days of the end of the fourth calendar quarter; and

(5) any other information the Commissioner reasonably requires with respect to the licensee. The Commissioner is authorized and encouraged to utilize NMLS for the submission of the report required by this subsection and is authorized to change or update as necessary the requirements of this subsection to carry out the purposes of this chapter and maintain consistency with NMLS reporting.

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(F) Each licensee, within ninety days after the end of each fiscal year, or within any extended time as the Commissioner may prescribe, shall file with the Commissioner:

(1) an audited financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles, prepared by an independent certified public accountant or independent public accountant who is satisfactory to the Commissioner, which must include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the Commissioner. If the certificate or opinion is qualified, the Commissioner may order the licensee to take any action as the Commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification; and

(2) any other information as the Commissioner may reasonably require.

Section 35-11-515. (A) A licensee shall:

~~(1) give the commissioner notice in a record of a proposed change of control within fifteen days after learning of the proposed change of control;~~

~~(2) request approval of the acquisition; and~~

~~(3) submit a nonrefundable fee of one thousand dollars with the notice.~~

~~(B) After review of a request for approval pursuant to subsection (A), the commissioner may require the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information must be limited to the same types required of the licensee or persons in control of the licensee as part of its original license or renewal application.~~

~~(C) The commissioner shall approve a request for change of control pursuant to subsection (A) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.~~

~~(D) When an application for a change of control pursuant to this article is complete, the commissioner shall notify the licensee in a record of the date on which the request was determined to be complete and:~~



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~~\_\_\_\_\_ (1) the commissioner shall approve or deny the request within one hundred twenty days after that date; or~~

~~\_\_\_\_\_ (2) if the request is not approved or denied within one hundred twenty days after that date:~~

~~\_\_\_\_\_ (a) the request is considered approved; and~~

~~\_\_\_\_\_ (b) the commissioner shall permit the change of control under this section to take effect as of the first business day after expiration of the period.~~

~~\_\_\_\_\_ (E) The commissioner, by rule of order, may exempt a person from any of the requirements of subsection (A)(2) and (3) if it is in the public interest to do so.~~

~~\_\_\_\_\_ (F) Subsection (A) does not apply to a public offering of securities.~~

~~\_\_\_\_\_ (G) Before filing a request for approval to acquire control of a licensee or person in control of a licensee, a person may request in a record a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the commissioner shall enter an order to that effect and the proposed person and transaction is not subject to the requirements of subsections (A) through (C). Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Commissioner prior to acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to these acquisition of control provisions when that individual becomes a key individual in the ordinary course of business.~~

\_\_\_\_\_ (B) A person, or group of persons acting in concert, seeking to acquire control of a licensee, in cooperation with the licensee, shall:

\_\_\_\_\_ (1) submit an application in a form and in a medium prescribed by the Commissioner; and

\_\_\_\_\_ (2) submit a nonrefundable fee of one thousand dollars with the request for approval.

\_\_\_\_\_ (C) Upon request, the Commissioner may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the Commissioner pursuant to Section 35-11-515(B)(1) without using NMLS.

\_\_\_\_\_ (D) The application required by Section 35-11-515(B)(1) must include information required by Section 35-11-210 for any new key individuals that have not previously

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completed the requirements of Section 35-11-210 for a licensee.

(E) When an application for acquisition of control under this section appears to include all the items and addresses all of the matters that are required, the application must be considered complete and the Commissioner shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the Commissioner shall approve or deny the application within sixty days after the completion date; or

(2) if the application is not approved or denied within sixty days after the completion date:

(a) the application is approved;

(b) the person, or group of persons acting in concert, are not prohibited from acquiring control; and

(c) the Commissioner may for good cause extend the application period.

(F) A determination by the Commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(G) When an application is filed and considered complete under subsection (E), the Commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The Commissioner shall approve an acquisition of control pursuant to this section if the Commissioner finds that all of the following conditions have been fulfilled:

(1) the requirements of subsections (B) and (D) have been met, as applicable; and

(2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control; and the competence, experience, character, and general fitness of the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person, or group of persons acting in concert, to control the licensee.

(H) The Commissioner shall issue a formal written notice of the denial of an application to acquire control within thirty days

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of the decision to deny the application. The Commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the Commissioner under this section may request a hearing within thirty days after receipt of the written notice of the denial pursuant to Section 35-11-710.

\_\_\_\_\_ (I) The requirements of subsections (A) and (B) do not apply to any of the following:

\_\_\_\_\_ (1) a person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

\_\_\_\_\_ (2) a person that acquires control of a licensee by devise or descent;

\_\_\_\_\_ (3) a person that acquires control of a licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

\_\_\_\_\_ (4) a person that is exempt under Section 35-11-110(A)(4);

\_\_\_\_\_ (5) a person that the Commissioner determines is not subject to subsection (A) based on the public interest;

\_\_\_\_\_ (6) a public offering of securities of a licensee or a person in control of a licensee; or

\_\_\_\_\_ (7) an internal reorganization of a person in control of the licensee where the ultimate person in control of the licensee remains the same.

\_\_\_\_\_ (J) Persons in subsection (I)(2), (3), (4), (6), and (7), in cooperation with the licensee, shall notify the Commissioner within fifteen days after the acquisition of control.

\_\_\_\_\_ (K)(1) The requirements of subsections (A) and (B) do not apply to a person that has complied with and received approval to engage in money transmission under this chapter or was identified as a person in control in a prior application filed with and approved by the Commissioner or by an MSB-accredited state pursuant to a multistate licensing process, provided that:

\_\_\_\_\_ (a) the person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous five years;

\_\_\_\_\_ (b) if the person is a licensee, the person is well managed and has received at least a satisfactory rating for compliance at

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its most recent examination by an MSB-accredited state if such rating was given;

(c) the licensee to be acquired is projected to meet the requirements of Sections 35-11-215, 35-11-230, and 35-11-600 after the acquisition of control is completed, and if the person acquiring control is a licensee, that licensee is also projected to meet the requirements of Sections 35-11-215, 35-11-230, and 35-11-600 after the acquisition of control is completed;

(d) the licensee to be acquired will not implement any material changes to its business plan as a result of the acquisition of control, and if the person acquiring control is a licensee, that licensee also will not implement any material changes to its business plan as a result of the acquisition of control; and

(e) the person provides notice of the acquisition in cooperation with the licensee and attests to subsection (K)(1)(a), (b), (c), and (d) in a form and in a medium prescribed by the Commissioner.

(2) If the notice is not disapproved within thirty days after the date on which the notice was determined to be complete, the notice is deemed approved.

(L) Before filing an application for approval to acquire control of a licensee a person may request in writing a determination from the Commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the Commissioner determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of subsections(A) and (B).

(M)(1) A licensee adding or replacing any key individual shall:

(a) provide notice in a manner prescribed by the Commissioner within fifteen days after the effective date of the key individual's appointment; and

(b) provide information as required by Section 35-11-210 within forty-five days of the effective date.

(2) Within ninety days of the date on which the notice provided pursuant to item (1) was determined to be complete, the Commissioner may issue a notice of disapproval of a key individual if the competence, experience, character, or integrity of the individual would not be in the best interest of the public or the customers of the licensee to permit the individual to be a key individual of such licensee.

(3) A notice of disapproval must contain a statement of the basis for disapproval and must be sent to the licensee and the

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disapproved individual. A licensee may request a hearing regarding a notice of disapproval, within thirty days after receipt of such notice of disapproval pursuant to Section 35-11-710.

(4) If the notice provided pursuant to item (1) is not disapproved within ninety days after the date on which the notice was determined to be complete, the key individual is deemed approved.

Section 35-11-520. (A) A licensee shall maintain the following records for determining its compliance with this ~~act~~ chapter for at least three years:

(1) a record of each ~~payment instrument or stored value~~ outstanding money transmission obligation sold;

(2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

(3) bank statements and bank reconciliation records;

(4) records of outstanding ~~payment instruments and stored value~~ money transmission obligations;

(5) records of each ~~payment instrument and stored value~~ money transmission obligation paid within the three-year period;

(6) a list of the last known names and addresses of all of the licensee's authorized delegates; and

(7) other records the ~~commissioner~~ Commissioner reasonably requires by rule.

(B) The items specified in subsection (A) may be maintained in any form of record.

(C) Records may be maintained outside this State if they are made accessible to the ~~commissioner~~ Commissioner on a seven business-day notice that is sent in a record.

(D) All records maintained by the licensee as required in subsections (A) through (C) are open to inspection by the ~~commissioner~~ Commissioner pursuant to Section 35-11-500.

Section 35-11-525. (A) A licensee and an authorized delegate shall file with the ~~commissioner~~ Commissioner all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in ~~31 U.S.C. Section 5311 (1994), 31 C.F.R. Section 103 (2000)~~ the Bank Secrecy Act and other federal and state laws pertaining to money laundering.

(B) The timely filing of a complete and accurate report required pursuant to subsection (A) with the appropriate federal agency is in compliance with the requirements of subsection (A), unless the ~~commissioner~~ Commissioner notifies the licensee that reports of this

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type are not being regularly and comprehensively transmitted by the federal agency to the ~~commissioner~~Commissioner.

~~Section 35-11-530. (A) Unless otherwise specified in this section, all information filed with the Securities Commissioner shall be available for public inspection pursuant to rules promulgated by the commissioner consistent with state and federal law governing the disclosure of public information. Except as otherwise provided in subsection (B), all information or reports obtained by the Commissioner from an applicant, licensee, or authorized delegate, and all information contained in or related to an examination, investigation, operating report, or condition report prepared by, on behalf of, or for the use of the Commissioner, or financial statements, balance sheets, or authorized delegate information, are confidential and are not subject to disclosure under Section 30-4-10, et seq.~~

~~(B) Except for reasonably segregable portions of information and records that by law would routinely be made available to a party other than an agency in litigation with the commissioner, the commissioner shall not publish or make available:~~

~~\_\_\_\_\_ (1) information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an investigation, examination, or inspection of the books and records of a person;~~

~~\_\_\_\_\_ (2) interagency or intra-agency memoranda or letters, including without limitation:~~

~~\_\_\_\_\_ (a) records that reflect discussions between or consideration by the commissioner or members of the commissioner's staff, or both, of an action taken or proposed to be taken by the commissioner or by a member of the commissioner's staff; and~~

~~\_\_\_\_\_ (b) reports, summaries, analyses, conclusions, or any other work product of the commissioner or of attorneys, accountants, analysts, or other members of the commissioner's staff, prepared in the course of an:~~

~~\_\_\_\_\_ (i) inspection of the books or records of a person whose affairs are regulated by the commissioner; or~~

~~\_\_\_\_\_ (ii) examination, investigation, or litigation conducted by or on behalf of the commissioner;~~

~~\_\_\_\_\_ (3) personnel files, medical files, and similar files if disclosure would constitute a clearly unwarranted invasion of personal privacy, including without limitation:~~

~~\_\_\_\_\_ (a) information concerning all employees of the South Carolina Securities Division and all persons subject to regulation~~

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by the division; and

~~\_\_\_\_\_ (b) personal information reported to the commissioner under the division's rules concerning registration about employees of applicants, licensees, or their agents;~~

~~\_\_\_\_\_ (4)(a) investigatory records compiled for law enforcement purposes to the extent that production of the records would:~~

~~\_\_\_\_\_ (i) interfere with enforcement proceedings;~~

~~\_\_\_\_\_ (ii) deprive a person of a right to a fair trial or an impartial adjudication; or~~

~~\_\_\_\_\_ (iii) disclose the identity of a confidential source;~~

~~\_\_\_\_\_ (b) the commissioner also may withhold investigatory records that would:~~

~~\_\_\_\_\_ (i) constitute an unwarranted invasion of personal privacy;~~

~~\_\_\_\_\_ (ii) disclose investigative techniques and procedures; or~~

~~\_\_\_\_\_ (iii) endanger the life or physical safety of law enforcement personnel;~~

~~\_\_\_\_\_ (c) as used in this section, "investigatory records" includes:~~

~~\_\_\_\_\_ (i) all documents, records, transcripts, correspondence, and related memoranda and work products concerning examinations and other investigations and related litigation as authorized by law that pertain to or may disclose the possible violation by a person of a provision of the statutes or rules administered by the commissioner; and~~

~~\_\_\_\_\_ (ii) all written communications from or to a person confidentially complaining or otherwise furnishing information about a possible violation, as well as all correspondence and memoranda in connection with the confidential complaint or information;~~

~~\_\_\_\_\_ (5) information contained in or related to examinations, operating reports, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, check issuers, money transmitters, money services providers, or money service businesses;~~

~~\_\_\_\_\_ (6)(a) financial records of an applicant, licensee, or the agent of an applicant or licensee obtained during or as a result of an examination by the commissioner;~~

~~\_\_\_\_\_ (b) when a record is required to be filed pursuant to this article with the commissioner as part of an application for license,~~

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annual renewal, or otherwise, the record, including financial statements prepared by certified public accountants, must be public information unless sections of the information are bound separately and are marked "confidential" by the applicant, licensee, or agent upon filing;

~~\_\_\_\_\_ (c) information pursuant to subitem (b) bound separately and marked "confidential" must be considered nonpublic until ten days after the commissioner has given the applicant, licensee, or agent notice that an order will be entered finding the material public information.~~

~~\_\_\_\_\_ (d) an applicant, licensee, or agent may seek an injunction from the Richland County Circuit Court ordering the commissioner to withhold the information as nonpublic pending a final order from a court of competent jurisdiction if the order of the commissioner pursuant to subitem (c) is appealed under applicable law;~~

~~\_\_\_\_\_ (7) trade secrets obtained from a person; or~~

~~\_\_\_\_\_ (8) another record that is required to be closed to the public and is not considered open to public inspection under other law.~~  
The Commissioner may disclose information not otherwise subject to disclosure under subsection (A) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information or where the Commissioner finds that the release is reasonably necessary for the protection and interest of the public in accordance with Section 30-4-10, et seq.

~~\_\_\_\_\_ (C) The commissioner may disclose information not otherwise subject to disclosure pursuant to subsection (A) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information; or the commissioner finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given previous notice by the commissioner of the commissioner's intent to release the information.~~

~~(D)~~(C) This section does not prohibit the commissioner from disclosing to the public a list of persons licensed under this chapter or the aggregated financial data concerning those licensees.

(D) Information contained in the records of the Commissioner that is not confidential and may be made available to the public either on the Commissioner's website, upon receipt by the Commissioner of a written request, or in NMLS must include:

(1) the name, business address, telephone number, and unique identifier of a licensee;

(2) the business address of a licensee's registered



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agent for service;

\_\_\_\_\_ (3) the name, business address, and telephone number of all authorized delegates;

\_\_\_\_\_ (4) the terms of or a copy of any bond filed by a licensee, provided that confidential information including, but not limited to, prices and fees for such bond is redacted;

\_\_\_\_\_ (5) copies of any nonconfidential final orders of the Commissioner relating to any violation of this chapter or regulations implementing this chapter; and

\_\_\_\_\_ (6) imposition of an administrative fine or penalty under this chapter.

Section 35-11-535. (A) Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

\_\_\_\_\_ (B) If a licensee fails to forward money received for transmission in accordance with this section, the licensee must respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law, rule, or regulation.

Section 35-11-540. (A) This section does not apply to:

\_\_\_\_\_ (1) money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, Subpart B, as amended or recodified from time to time; or

\_\_\_\_\_ (2) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

\_\_\_\_\_ (B) Every licensee shall refund to the sender within ten days of receipt of the sender's written request for a refund of any and all money received for transmission unless any of the following occurs:

\_\_\_\_\_ (1) the money has been forwarded within ten days of the date on which the money was received for transmission;

\_\_\_\_\_ (2) instructions have been given committing an equivalent amount of money to the person designated by the sender within ten days of the date on which the money was received for transmission;

\_\_\_\_\_ (3) the agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond ten days of the date on which the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in

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accordance with the other provisions of this section;

(4) the refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur; or

(5) the refund request does not enable the licensee to:

(a) identify the sender's name and address or telephone number; or

(b) identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

Section 35-11-545. (A) This section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, Subpart B, as amended or recodified from time to time;

(2) money received for transmission that is not primarily for personal, family, or household purposes;

(3) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

(B) For purposes of this article, "receipt" means a paper receipt, electronic record, or other written confirmation. For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(C) Every licensee or its authorized delegate shall provide the sender a receipt for money received for transmission.

(1) The receipt must contain the following information, as applicable:

(a) the name of the sender;

(b) the name of the designated recipient;

(c) the date of the transaction;

(d) the unique transaction or identification number;

(e) the name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;

(f) the amount of the transaction in United States dollars;

(g) any fee charged by the licensee to the sender for the transaction; and

(h) any taxes collected by the licensee from the sender for the

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transaction.

(2) The receipt required by this section shall be in English and in the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically or by phone, if other than English.

Section 35-11-550. Every licensee or authorized delegate shall include on a receipt or disclose on the licensee's website or mobile application the name and phone number of the South Carolina Office of Attorney General and a statement that the licensee's customers can contact the Commissioner with complaints about the licensee's money transmission services.

Article 6

Permissible Investments

Section 35-11-600. (A) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding ~~payment instruments and store value obligations issued or sold in all states and money transmitted from all states by the licensee~~ money transmission obligation.

(B) Except for permissible investments enumerated in Section 35-11-605(A), ~~The commissioner~~ the Commissioner, with respect to a ~~any~~ licensee, may, by rule or order, limit the extent to which a ~~type of specific investment maintained by a licensee~~ within a class of permissible investments may be considered a permissible investment, ~~except for money and certificates of deposit issued by a bank. The commissioner by rule may prescribe or by order allow other types of investments that the commissioner determines to have a safety substantially equivalent to other permissible investments~~ if the specific investment represents undue risk to customers, not reflected in the market value of the investments.

(C) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's ~~outstanding payment instruments and stored value~~ money transmission obligations in the event of ~~bankruptcy or receivership of the licensee~~ insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or in the event of an action by a creditor against the

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licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this section may be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(D) Upon the establishment of a statutory trust in accordance with subsection (C) or when any funds are drawn on a letter of credit pursuant to Section 35-11-605(A)(4), the Commissioner shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this State, and other states, as applicable. Any statutory trust established hereunder must be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(E) The Commissioner, by regulation or by order, may allow other types of investments that the Commissioner determines are of sufficient liquidity and quality to be a permissible investment. The Commissioner is authorized to participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

~~Section 35-11-605. (A) Except to the extent otherwise limited by the commissioner pursuant to Section 35-11-600, the~~The following investments are permissible pursuant to Section 35-11-600:

~~(1) cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813 (1994 & Supp. V 1999)~~cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution, and cash equivalents including ACH items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank, or money market mutual funds rated "AAA" by S&P, or the equivalent from any eligible rating service;

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~~(2) banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve Bank certificates of deposit or senior debt obligations of an insured depository institution, as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813, as amended or recodified from time to time, or as defined under the federal Credit Union Act, 12 U.S.C. Section 1781, as amended or recodified from time to time;~~

~~(3) an investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities an obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;~~

~~(4) an investment security that is an obligation of the United States or a department, agency, or instrumentality of the United States; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a State or a governmental subdivision, agency, or instrumentality of a state the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subsection (A)(4)(c).~~

~~(a) The letter of credit must:~~

~~(i) be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that bears an eligible rating or whose parent company bears an eligible rating and is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies;~~

~~(ii) be irrevocable, unconditional, and indicate that it is not subject to any condition or qualifications outside of the letter of credit;~~

~~(iii) not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and~~

~~(iv) contain an issue date and expiration date,~~

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and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the Commissioner in writing by certified or registered mail or courier mail or other receipted means, at least sixty days prior to any expiration date, that the irrevocable letter of credit will not be extended.

(b) In the event of any notice of expiration or nonextension of a letter of credit issued under subsection (A)(4)(a)(iv), the licensee is required to demonstrate to the satisfaction of the Commissioner, fifteen days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with Section 35-11-600(A) upon the expiration of the letter of credit. If the licensee is not able to do so, the Commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with Section 35-11-600(A). Any such draw must be offset against the licensee's outstanding money transmission obligations. The drawn funds must be held in trust by the Commissioner or the Commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(c) The letter of credit must provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

(i) the original letter of credit, including any amendments; and

(ii) a written statement from the beneficiary stating that any of the following events have occurred:

(A) the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization;

(B) the filing of a petition by or against the licensee for receivership, or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;

(C) the seizure of assets of a licensee by a commissioner pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or

(D) the beneficiary has received notice of

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expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with Section 35-11-600(A) upon the expiration or nonextension of the letter of credit.

(d) The Commissioner may designate an agent to serve on the Commissioner's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the Commissioner. The Commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this section are assigned to the Commissioner.

(e) The Commissioner is authorized and encouraged to participate in multistate processes designed to facilitate the issuance and administration of letters of credit including, but not limited to, services provided by the NMLS and State Regulatory Registry, LLC; and

~~(5) receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts that are not past due or doubtful of collection if the aggregate amount of receivables under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not hold at one time receivables under this item in any one person aggregating more than ten percent of the licensee's total permissible investments; and~~

~~(6) a share or a certificate issued by an open end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940, 15 U.S.C. Section 80a 1-64 (1994 & Supp. V 1999), and whose portfolio is restricted by the management company's investment policy to investments specified in items (1) through (4). one hundred percent of the surety bond or deposit provided for under Section 35-11-215 that exceeds the average daily money transmission liability in this State.~~

(B) Unless permitted by the Commissioner by regulation or order to exceed the limit as set forth herein, The the following investments are permissible pursuant to Section 35-11-600, but only to the extent specified:

~~(1) an interest bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over the counter market, if the aggregate of investments under this item does not exceed twenty percent of the total~~

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~~permissible investments of a licensee and the licensee does not at one time hold investments under this item in any one person aggregating more than ten percent of the licensee's total permissible investments~~  
receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven days old, up to fifty percent of the aggregate value of the licensee's total permissible investments;

~~(2) a share of a person traded on a national securities exchange or a national over the counter market or a share or a certificate issued by an open end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940, 15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999), and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over the counter market, if the aggregate of investments under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than ten percent of the licensee's total permissible investments~~  
of the receivables permissible under item (1), receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed ten percent of the aggregate value of the licensee's total permissible investments;

~~(3) a demand borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of principal and interest outstanding under demand borrowing agreements under this item does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold principal and interest outstanding under demand borrowing agreements under this item with any one person aggregating more than ten percent of the licensee's total permissible investments~~  
the following investments are permissible up to twenty percent for each category and combined up to fifty percent of the aggregate value of the licensee's total permissible investments:

\_\_\_\_\_ (a) a short-term, up to six months, investment bearing an eligible rating;

\_\_\_\_\_ (b) commercial paper bearing an eligible rating;

\_\_\_\_\_ (c) a bill, note, bond, or debenture bearing an eligible rating;

\_\_\_\_\_ (d) U.S. tri-party repurchase agreements



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collateralized at one hundred percent or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(e) money market mutual funds rated less than “AAA” and equal to or higher than “A-” by S&P, or the equivalent from any other eligible rating service; and

(f) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subsection (A)(1) through (A)(3); and

(4) another investment the commissioner designates, to the extent specified by the commissioner, cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee’s customers, at foreign depository institutions are permissible up to ten percent of the aggregate value of the licensee’s total permissible investments if the licensee has received a satisfactory rating in its most recent examination and the foreign depository institution:

(a) has an eligible rating;

(b) is registered under the Foreign Account Tax Compliance Act;

(c) is not located in any country subject to sanctions from the Office of Foreign Asset Control; and

(d) is not located in a high-risk or noncooperative jurisdiction as designated by the Financial Action Task Force.

(C) The aggregate of investments pursuant to subsection (B) may not exceed fifty percent of the total permissible investments of a licensee calculated pursuant to Section 35-11-600.

Article 7

Enforcement

Section 35-11-700. (A) ~~The commissioner~~ Commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

(1) the licensee violates this chapter or a ~~rule adopted~~ regulation or an order issued pursuant to this ~~act~~ chapter;

(2) the licensee does not cooperate with an examination or investigation by the ~~commissioner~~ Commissioner;

(3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

(4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a ~~rule adopted~~ regulation or an order issued pursuant to this chapter, as a result of the licensee’s wilful misconduct or wilful blindness;

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(5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or ~~responsible person~~ key individual of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;

(6) the licensee engages in an unsafe or unsound practice;

(7) the licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; ~~or~~

(8) the licensee does not remove an authorized delegate after the ~~commissioner~~ Commissioner issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this chapter; ~~or~~

(9) the licensee is the subject of a final order, including a denial, suspension, or revocation, by this or any other state or federal financial services regulator, including a state or federal money services regulator, that was entered against the licensee within the past five years.

(B) In determining whether a licensee is engaging in an unsafe or unsound practice, the ~~commissioner~~ Commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this ~~act~~ chapter or a regulation or order issued pursuant to this chapter, and the previous conduct of the person involved.

(C) In determining whether to suspend or revoke a license under subsection (A)(9), the Commissioner may consider if the licensee subject to the final order is currently licensed to conduct business in the jurisdiction where the order was entered.

(D) The Commissioner shall issue a formal written notice of the suspension or revocation. The Commissioner shall set forth in the order the specific reasons for the suspension or revocation. A licensee may request a hearing within thirty days after receipt of the written notice of suspension or revocation pursuant to Section 35-11-710.

Section 35-11-705. (A) The ~~commissioner~~ Commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the ~~commissioner~~ Commissioner finds that the:

(1) authorized delegate violated this chapter or a ~~rule~~ adopted regulation or an order issued pursuant to this chapter;

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(2) authorized delegate did not cooperate with an examination or investigation by the ~~commissioner~~ Commissioner;

(3) authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;

(4) authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;

(5) competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services; or

(6) authorized delegate is engaging in an unsafe or unsound practice.

(B) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the ~~commissioner~~ Commissioner may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of this chapter or a ~~rule adopted~~ regulation or order issued pursuant to this chapter, and the previous conduct of the authorized delegate.

(C) The Commissioner shall issue a formal written notice of the suspension or revocation. The Commissioner shall set forth in the order the specific reasons for the suspension or revocation. An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the commissioner request a hearing within thirty days after receipt of the written notice of suspension or revocation pursuant to Section 35-11-710.

Section 35-11-710. (A) ~~If the commissioner determines that a violation of this chapter or of a rule adopted or an order issued pursuant to this chapter by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.~~ If the Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a regulation or order issued under this chapter, the Commissioner may:

(1) issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take

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other action necessary or appropriate to comply with this chapter;

(2) issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the Commissioner; or

(3) issue an order under Sections 35-11-220(E), 35-11-235(A), 35-11-310(D), 35-11-515(H), 35-11-515(M), 35-11-700, and 35-11-705.

(B) The commissioner may issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the commissioner. An order under subsection (A) is effective on the date of issuance. Upon issuance of the order, the Commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the Commissioner will seek, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the Commissioner within thirty days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought, becomes final as to that person by operation of law. If a hearing is requested or ordered, the Commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(C) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Section 35-11-700 or 35-11-705. If a hearing is requested or ordered pursuant to subsection (B), a hearing must be held. A final order may not be issued unless the Commissioner makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (A).

(D) In a final order under subsection (C), the Commissioner may impose a civil penalty against a person that violates this chapter or a regulation or order issued pursuant to this chapter in an amount not to exceed one thousand dollars per day for each day the violation is outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney fees.

(E) If a petition for judicial review of a final order is not filed in accordance with Section 35-11-830, the Commissioner may

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file a certified copy of the final order with the clerk of court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(F) If a person does not comply with an order under this section, the Commissioner may petition a court of competent jurisdiction to enforce the order. The court may not require the Commissioner to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five hundred dollars but not greater than five thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(G) A hearing in an administrative proceeding under this chapter must be conducted in public unless the Commissioner, for good cause consistent with this chapter, determines that the hearing will not be so conducted.

Section 35-11-715. ~~The commissioner~~ Commissioner may enter into a consent order at any time with a person to resolve a matter arising pursuant to this chapter or a ~~rule adopted~~ regulation or order issued pursuant to this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a ~~rule adopted~~ regulation or an order issued pursuant to this chapter has been violated.

Section 35-11-720. ~~The commissioner may assess a civil penalty against a person that violates this chapter or a rule adopted or an order issued pursuant to this chapter in an amount not to exceed one thousand dollars per day for each day the violation is outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney fees~~ Reserved.

Section 35-11-725. (A) A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained pursuant to this chapter, who intentionally makes a false entry or omits a material entry in that record, or violates a rule promulgated or order issued pursuant to this chapter is guilty of a Class B felony.

(B) A person who knowingly engages in an activity for

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which a license is required pursuant to this chapter without being licensed pursuant to this chapter and who receives more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a Class B felony.

(C) A person who knowingly engages in an activity for which a license is required pursuant to this chapter without being licensed pursuant to this chapter and who receives no more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a Class A misdemeanor.

Section 35-11-730. (A) ~~If the commissioner~~ Commissioner has reason to believe that a person ~~has violated or is violating Section 35-11-200 or 35-11-300, the commissioner may issue an order to show cause why an order to cease and desist should not be issued requiring the person to cease and desist from the violation of Section 35-11-200 or 35-11-300.~~ engaged or is about to engage in an act or practice constituting a violation of this chapter or a regulation or order issued pursuant to this chapter, the Commissioner may summarily issue an order to cease and desist pursuant to Section 35-11-710.

(B) ~~In an emergency, the commissioner may petition the Richland County Circuit Court for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure. The Commissioner may apply to the Richland County Court of Common Pleas to:~~

(1) temporarily or permanently enjoin an act or practice that violates this chapter or a regulation or order issued pursuant to this chapter; or

(2) enforce compliance with this chapter or a regulation or order issued or pursuant to this chapter.

~~(C) An order to cease and desist becomes effective upon service of the order on the person. A person that is served with an order to cease and desist for violating Section 35-11-200 or 35-11-300 may petition the Richland County Court of Common Pleas for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to Section 35-11-710.~~

~~(D) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Sections 35-11-800 and 35-11-805.~~

Section 35-11-735. (A) Whenever a licensee has refused or is unable to pay its obligations generally as they become due or whenever it appears to the ~~commissioner~~ Commissioner that a

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licensee is in an unsafe or unsound condition, the ~~commissioner~~ Commissioner may apply to the Richland County ~~Circuit~~ Court of Common Pleas or to the circuit court of any county in which the licensee is located for the appointment of a receiver for the licensee. The court may require the receiver to post a bond in an amount that appears necessary to protect claimants of the licensee.

(B) The receiver, subject to the approval of the court, shall take possession of the books, records, and assets of the licensee and shall take an action with respect to employees, agents, or representatives of the licensee or other action that may be necessary to conserve the assets of the licensee or ensure payment of instruments issued by the licensee pending further disposition of its business as provided by law. The receiver shall sue and defend, compromise, and settle all claims involving the licensee and exercise the powers and duties that are necessary and consistent with the laws of this State applicable to the appointment of receivers.

(C) The receiver, from time to time, but in no event less frequently than once each calendar quarter, shall report to the court with respect to all acts and proceedings in connection with the receivership.

Section 35-11-740. (A)(1) A person who, knowing that the property involved in a financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of unlawful activity, conducts or attempts to conduct such a financial transaction that in fact involves the proceeds:

(a) with the intent to promote the carrying on of unlawful activity; or

(b) knowing that the transaction is designed in whole or in part to conceal or disguise the nature, location, sources, ownership, or control of the proceeds of unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:

(i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;

(ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or

(iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

In addition to penalties, a person who is found guilty of or who pleads guilty or nolo contendere to having violated this section may be sentenced to pay a fine not to exceed two hundred fifty thousand

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dollars, or twice the value of the financial transactions, whichever is greater; however, for a second or subsequent violation of this section, the fine may be up to five hundred thousand dollars, or quintuple the value of the financial transactions, whichever is greater.

(2) A person who transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in South Carolina to or through a place outside the United States or to a place in South Carolina from or through a place outside the United States:

(a) with the intent to promote the carrying on of unlawful activity; or

(b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of unlawful activity and knowing that the transportation is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of unlawful activity is guilty of a felony and, upon conviction, must be punished as follows:

(i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;

(ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or

(iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

In addition to penalties, a person who is found guilty of or who pleads guilty or nolo contendere to having violated this section may be sentenced to pay a fine not to exceed two hundred fifty thousand dollars or twice the value of the financial transactions, whichever is greater; however, for a second or subsequent violation of this section, the fine may be up to five hundred thousand dollars, or quintuple the value of the financial transactions, whichever is greater.

(3) A person with the intent:

(a) to promote the carrying on of unlawful activity; or

(b) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of unlawful activity, conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of unlawful activity, or property used to conduct or facilitate unlawful activity is guilty of a felony and, upon conviction, must be



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punished as follows:

(i) for a Class F felony if the transactions exceed three hundred dollars but are less than twenty thousand dollars in a twelve-month period;

(ii) for a Class E felony for transactions that total or exceed twenty thousand dollars but are less than one hundred thousand dollars in a twelve-month period; or

(iii) for a Class C felony for transactions that total or exceed one hundred thousand dollars in a twelve-month period.

In addition to penalties, a person who is found guilty of or who pleads guilty or nolo contendere to having violated this section may be sentenced to pay a fine not to exceed two hundred fifty thousand dollars or twice the value of the financial transactions, whichever is greater; however, for a second or subsequent violation of this section, the fine may be up to five hundred thousand dollars or quintuple the value of the financial transactions, whichever is greater.

For purposes of this subitem, the term “represented” means a representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a state official authorized to investigate or prosecute violations of this section.

(B) A person who conducts or attempts to conduct a transaction described in subsection (A)(1), or transportation described in subsection (A)(2), is liable to the State for a civil penalty of not more than the greater of:

(1) the value of the property, funds, or monetary instruments involved in the transaction; or

(2) ten thousand dollars.

A court may issue a pretrial restraining order or take another action necessary to ensure that a bank account or other property held by the defendant in the United States is available to satisfy a civil penalty under this section.

(C) As used in this section:

(1) the term “conducts” includes initiating, concluding, or participating in initiating or concluding a transaction;

(2) the term “transaction” includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or another payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

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(3) the term “financial transaction” means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments;

(4) the term “monetary instruments” means coin or currency of the United States or of another country, travelers’ checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in that form that title to it passes upon delivery, and negotiable instruments in bearer form or otherwise in that form that title to it passes upon delivery;

(5) the term “financial institution” has the definition given that term in Section 5312(a)(2), Title 31, United States Code, and the regulations promulgated thereunder.

(D) Nothing in this section supersedes a provision of law imposing criminal penalties or affording civil remedies in addition to those provided for in this section, and nothing in this section precludes reliance in the appropriate case upon the provisions set forth in Section 44-53-475.

Section 35-11-745. (A) The Commissioner may:

(1) conduct public or private investigations within or outside of this State which the Commissioner considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this chapter or a regulation or order issued pursuant to this chapter, or to aid in the enforcement of this chapter or in the adoption of rules and forms under this chapter;

(2) require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(3) publish a record concerning an action, proceeding, or an investigation under, or a violation of, this chapter or a regulation or order issued pursuant to this chapter if the Commissioner determines it is necessary or appropriate in the public interest.

(B) For the purpose of an investigation under this chapter, the Commissioner or its designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the Commissioner considers relevant or material to the investigation.

(C) If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by

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the Commissioner under this chapter, the Commissioner may apply to the Richland County Court of Common Pleas or a court of another state to enforce compliance. The court may:

- (1) hold the person in contempt;
- (2) order the person to appear before the Commissioner;
- (3) order the person to testify about the matter under investigation or in question;
- (4) order the production of records;
- (5) grant injunctive relief;
- (6) impose a civil penalty of not less than five hundred dollars and not greater than five thousand dollars for each violation; and
- (7) grant any other necessary or appropriate relief.

(D) This section does not preclude a person from applying to the Richland County Court of Common Pleas for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

Article 8

Administrative Procedures

~~Section 35-11-800. All administrative proceedings pursuant to this chapter must be conducted in accordance with Article 3, Chapter 23, Title 1. In order to carry out the purposes of this chapter, the Commissioner may, subject to the provisions of Section 35-11-530:~~

- (1) enter into agreements or relationships with other governmental officials or federal and state regulatory agencies and regulatory associations in order to improve efficiencies and reduce regulatory burden by standardizing methods or procedures, and sharing resources, records, or related information obtained under this chapter;
- (2) use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this chapter;
- (3) accept, from other state or federal governmental agencies or officials, licensing, examination, or investigation reports made by such other state or federal governmental agencies or officials; and
- (4) accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

~~Section 35-11-805. Except as otherwise provided in Sections 35-11-225(C), 35-11-315(C), 35-11-710, and 35-11-730, the commissioner~~The Commissioner may not suspend or revoke a license, issue an order to cease and desist, suspend or revoke the designation of

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an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard pursuant to Section 35-11-710. The ~~commissioner~~ Commissioner also shall hold a hearing when requested to do so by an applicant whose application for a license is denied.

Section 35-11-810. This chapter is administered by the ~~commissioner~~ Commissioner who may employ such additional assistants as he deems necessary. The ~~commissioner~~ Commissioner may delegate any or all of his duties pursuant to this chapter to members of his staff, as he deems necessary or appropriate.

Section 35-11-815. The commissioner may promulgate and amend regulations or issue orders necessary to carry out the purposes of this chapter in order to provide for the protection of the public and to assist licensees in interpreting and complying with this chapter.

Section 35-11-820. The Commissioner may establish reasonable fees for filings required or permitted by regulation or order adopted pursuant to this chapter, and other miscellaneous filings for which no fees are otherwise specified by law.

Section 35-11-825. The Commissioner may retain all fees, assessments, and fines received under this chapter for the administration of this chapter.

Section 35-11-830. A person aggrieved by a final order of the Commissioner may obtain a review of the order in the Richland County Court of Common Pleas by filing in the court, within thirty days after entry of the order, a written petition praying that the order may be modified or set aside in whole or in part. The aggrieved person, upon filing a petition, may move before the court in which the petition is filed to stay the effectiveness of the Commissioner's final order until such time as the court has reviewed the order. If the court orders a stay, the aggrieved person must post any bond set by the court in which a petition is filed. A copy of the petition must be served upon the Commissioner, and the Commissioner shall certify and file in court a copy of the filing and evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The findings of the Commissioner as to the facts, if supported by competent, material, and substantial evidence, are conclusive.

Article 9

Miscellaneous Provisions

Section 35-11-900. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that

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enact it.

Section 35-11-905. (A) A person licensed in this State to engage in the business of money transmission may not be subject to the amended provisions of this chapter, to the extent that they conflict with the prior law or establish new requirements not imposed under the prior law, until the first January first after the effective date of this chapter.

(B) Notwithstanding subsection (A), a licensee only must be required to amend its authorized delegate contracts for contracts entered into or amended after the effective date of the amendments to this chapter or the completion of any transition period contemplated under subsection (A). Nothing herein may be construed as limiting an authorized delegate's obligations to operate in full compliance with this chapter as required by Section 35-11-400(C).

SECTION 2. This act may be cited as the "South Carolina Energy Security Act".

SECTION 3. Section 58-3-20 of the S.C. Code is amended to read:

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

(1) a baccalaureate or more advanced degree from:

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

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

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

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

(a) energy issues;

(b) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

~~(B)(1) Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the Second, Fourth, and Sixth Congressional Districts must be elected for terms ending on June 30, 2006, and until~~

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

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

~~(C) (B)(1) The General Assembly must provide for the election of the seventh ~~three~~-member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify. The commission members must be elected to terms of four years and until their successors are elected and qualify.~~

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(2) The commission members must be elected from the state at large; however, membership on the commission should reflect all segments of the population of the State, to the greatest extent possible.

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

SECTION 4. Section 58-3-140 of the S.C. Code is amended to read:

Section 58-3-140. (A)(1) Except as otherwise provided in Chapter 9 of this title, the commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State.

(2) The commission must promulgate regulations to establish safety, maintenance, and inspection standards for the public utilities and may assess fines for public utilities that violate these standards.

(B)(1) The commission, in conducting its analysis and making a decision in matters involving electrical utilities, must consider the economic impact to the State when fixing just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every electrical utility in this State.

(2) The General Assembly declares the rates, services, and operations of electrical utilities are a matter of public interest and the availability of an adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina is a matter of public policy. When exercising its powers under this section, the commission must balance the public interest in determining the rates, services, and operations of electrical utilities. It is the policy of this State for the commission, in matters involving electrical utilities, to:

(a) ensure South Carolina customers have access to an adequate, reliable, and economical supply of energy resources;

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(b) sustain growth in industrial and economic development by ensuring an electric generation, transmission, and distribution system that can grow and modernize to meet the demands that a prosperous and developing economy places on it;

(c) provide fair regulation of electrical utilities in the interest of the public in a manner that maintains the financial integrity of the electrical utility by assuring a sufficient and fair rate of return, supports economic development and industry retention, and provides just and reasonable rates to be established for entities providing electrical utility services to customers in this State while promoting adequate, reliable, and economical utility service to all of the citizens and residents of this State;

(d) provide the State and the public with a well-regulated electrical utility environment;

(e) assure that resources necessary to meet future growth through the provision of adequate, reliable electrical utility service include use of the entire spectrum of demand-side options, including but not limited to, conservation, load management, and energy efficiency programs as additional sources of energy supply and energy demand reduction;

(f) provide just and reasonable rates and charges for electrical utility services without undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic generation and uses of energy;

(g) assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities, and to that end, to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities;

(h) recognize the important role of utilities in economic development and industry retention and the necessity for utilities to maintain the ability to finance continued investment in, and operation and maintenance of, the electric system, rapid restoration of power after major storms and outages, rate designs, and infrastructure necessary to attract and retain businesses and jobs to South Carolina, the ability to obtain financing at attractive rates, and to ensure a viable workforce for providing electricity and to attract such utility workers at market-competitive wages;

(i) seek to encourage and promote harmony



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between public utilities, their users, and the environment;

(j) foster the continued service of electrical utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare, economic development, and industry retention;

(k) seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide economic development and industry retention;

(l) encourage the continued study and research on new and innovative rate designs which will protect the State, the public, the ratepayers and the utilities;

(m) facilitate the construction of facilities in and the extension of natural gas service to unserved and underserved areas in order to promote the public welfare throughout the State;

(n) further the development of cleaner energy technologies on a cost-effective basis to protect the natural resources of this State, promote the health and well-being of the people of this State, and attract investments, create employment opportunities, drive economic growth, and foster innovation in this State; and

(o) accomplish regulatory processes and issue orders in a timely manner.

~~(B)~~(C) The commission must develop and publish a policy manual which must set forth guidelines for the administration of the commission. All procedures must incorporate state requirements and good management practices to ensure the efficient and economical utilization of resources.

~~(C)~~(D) The commission must facilitate access to its general rate request orders in contested matters involving more than one hundred thousand dollars by publishing an order guide which indexes and cross-references orders by subject matter and case name. The order guide must be made available for public inspection.

~~(D)~~(E) The commission must promulgate regulations to require the direct testimony of witnesses appearing on behalf of utilities and of witnesses appearing on behalf of persons having formal intervenor status, such testimony to be reduced to writing and prefiled with the commission in advance of any hearing. In contested case proceedings, the applicant seeking relief from the commission shall have the right to prefile rebuttal testimony responsive to the direct prefiled testimony of other parties. The commission may allow supplemental testimony in cases where new matters arise after the filing of direct

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testimony, provided that parties shall have the right to respond to such supplemental testimony. The procedural schedule for each contested case proceeding shall include dates for completion of each phase of discovery, including discovery related to the application or other initial pleading as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, rebuttal testimony of the applicant, and surrebuttal testimony but only if allowed by the commission upon motion that there is material new information for which surrebuttal testimony is required. The commission must act on a motion to allow surrebuttal testimony within three business days. Except upon showing of exceptional circumstances or surprise, all discovery must be completed not less than ten days prior to the hearing.

(F) The commission may convene public hearings to allow electrical utility customers to address the commission as public witnesses without intervening in the proceedings and without subjecting themselves to discovery or prefilings testimony. Public witnesses may address the commission on issues related to customer service, utility operations, reliability, economic hardship, affordability, environmental concerns, or other matters that affect them. The electrical utility and the Office of Regulatory Staff shall work to investigate and resolve individual service issues raised by public witnesses.

(G) Any other provision of law notwithstanding, to the extent the commission is authorized by the General Assembly to employ an independent third-party consultant to assist the commission in its duties with respect to a matter before the commission, such consultant may only rely upon evidence introduced by a party to that proceeding into the record subject to the requirements of the South Carolina Administrative Procedures Act. Further, the commission may not give any consultant employed by the commission party status in a proceeding before the commission.

~~(E)~~(H) Nothing in this section may be interpreted to repeal or modify specific exclusions from the commission's jurisdiction pursuant to Title 58 or any other title.

~~(F)~~(I) When required to be filed, tariffs must be filed with the office of the chief clerk of the commission and, on that same day, provided to the Executive Director of the Office of Regulatory Staff.

SECTION 5. Section 58-3-250(B) of the S.C. Code is amended to read:

(B) A copy of every final order or decision under the seal of the commission must be served by electronic service, or registered or certified mail, upon all parties to the proceeding or their

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attorneys. Service of every final order or decision upon a party or upon the attorney must be made by emailing a copy of the order to the party's email address provided to the commission or by mailing a copy to the party's last known address. If no email or other address is known, however, service shall be made by leaving a copy with the chief clerk of the commission. The order takes effect and becomes operative when served unless otherwise designated and continues in force either for a period designated by the commission or until changed or revoked by the commission. If, in the judgment of the commission, an order cannot be complied with within the time designated, the commission may grant and prescribe additional time as is reasonably necessary to comply with the order and, on application and for good cause shown, may extend the time for compliance fixed in its order.

SECTION 6. Section 58-4-10 of the S.C. Code is amended to read:

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

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

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

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

(3) preservation of the financial integrity of the State's public utilities to the extent necessary to provide for the of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

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

SECTION 7. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-150. (A) To further advance and expand upon Executive Order 2023-18 which established the PowerSC Energy

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Resources and Economic Development Interagency Working Group, the Office of Regulatory Staff, in consultation with a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations, natural gas and electrical utilities, the South Carolina Public Service Authority, and other affected state agencies, shall prepare a comprehensive South Carolina energy assessment and action plan, hereinafter referred to as “the plan”. This plan must identify recommended actions over a ten-year period to ensure the availability of adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina. For purposes of this section, natural gas and electrical utilities also includes any investor-owned electrical utility, a public utility as defined in Section 58-5-10, the Public Service Authority, electric cooperatives, and any consolidated political subdivision that owns or operates in this State equipment or facilities for generating, transmitting, delivering, or furnishing electricity, but does not include an entity that furnishes electricity only to itself, its residents, or tenants when such current is not resold or used by others.

(B) The Office of Regulatory Staff, in collaboration with the electrical utilities and the South Carolina Public Service Authority, shall aggregate data and analyses from their most recent integrated resource plans approved by the commission, and include any updates or associated filings and other available data in order to create a statewide comprehensive view of the availability of an adequate, reliable, and economical supply of energy resources to the people and economy of South Carolina.

(C) The plan must detail factors, and make recommendations, essential to adequate, reliable, and economical supply of energy resources for the people and economy of South Carolina, including but not limited to:

(1) projections of energy consumption in South Carolina, including the use of fuel resources and costs of electricity and generation resources across the electrical utilities’ and the South Carolina Public Service Authority’s balancing authority areas used to serve the State;

(2) the adequacy of electricity generation, transmission, and distribution resources in this State to meet projections of energy consumption;

(3) the adequacy of infrastructure utilized by natural gas industries in providing fuel supply to electric generation plants or otherwise for end-use customers;

(4) the overall needs of the South Carolina electric grid and

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transmission system and details from the plans of each electrical utility and the South Carolina Public Service Authority to meet current and future energy needs in a cost-effective, reliable, economic, and environmental manner;

(5) an assessment of state and local impediments to expanded use of generation or distributed resources and recommendations to reduce or eliminate such impediments;

(6) how energy efficiency, demand-side management programs, and conservation initiatives across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas may be expanded to lower bills and reduce electric consumption;

(7) details regarding potential siting of energy resource and transmission facilities in order to identify any disproportionate adverse impact of such activities on the environment, agricultural community, land use, and economically disadvantaged or minority communities;

(8) details regarding commercial and industrial consumer clean energy goals and options available to such customers to achieve these goals, including:

(a) an analysis of the barriers commercial and industrial consumers face in making such investments in this State;

(b) an analysis of any electric and natural gas regulatory barriers to the recruitment and retention of commercial and industrial customers in this State; and

(c) recommendations to address any barriers identified in items (a) and (b) in a manner that is consistent with the public interest and which is not duly impactful to nonparticipating customers as it pertains to rate and system impacts, and which is not unduly impactful to entities providing public utility services.

(C) In preparing the plan the Office of Regulatory Staff may retain an outside expert to assist with compiling this report.

(D) In addition to the information required by this section, the plan must include recommendations for legislative, regulatory, or other public and private actions to best ensure a reliable and reasonably priced energy supply in South Carolina that supports the continued growth and success of this State. In forming these recommendations, the Office of Regulatory Staff must confer with the stakeholder group to ensure the recommendations would likely achieve the intended result for the electric grid, electric generation, and natural gas resources serving South Carolina customers.

(E) The plan must be submitted to the Public Utilities Review Committee for approval.

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(F) The provisions of this section are subject to funding.

SECTION 8. Title 58 of the S.C. Code is amended by adding:

CHAPTER 38

South Carolina Energy Policy Institute

Section 58-38-10. This chapter is known as and may be cited as the “South Carolina Energy Policy Research and Economic Development Institute” or “EPI”.

Section 58-38-20. The General Assembly finds that:

(1) It is in the public interest of South Carolina to establish an Energy Policy Research and Economic Development Institute, also referred to as EPI, to support the efforts of the Advanced Resilient Energy Nexus, also referred to as SC Nexus, and research and propose solutions to address major challenges in the complex and evolving area of energy generation and storage.

(2) Research and documenting reliable data is essential for thoughtful consideration of the complex issues and concerns impacting energy generation and storage and the need for timely, substantive, and thorough advice from the EPI to the South Carolina General Assembly is critical to continue to position this State as a global leader.

(3) Advancement through the EPI of the broad collaboration through the SC Nexus will assist the State as a global leader in advanced energy by developing, testing, and deploying exportable electricity technologies. It will also allow the State to leverage the region’s dynamic and growing manufacturing base, superior research capabilities, and demonstrated record of public-private collaboration to innovate and commercialize emerging energy storage materials and manufacturing techniques, including a demonstrative microgrid implementation that integrates renewable energy and storage into the state’s electricity systems.

(4) The topography of South Carolina, with its coastal plains and low country, confronts further complications. While the State possesses renewable energy resources like hydropower potential from its rivers and lakes and biomass from wood and landfill gas, the lack of sustainable energy production exacerbates the energy deficit. It is critical that South Carolina provide safe, reliable, and affordable energy.

(5) The industrial sector in South Carolina accounts for approximately one-third of the state’s total energy use and heavily depends on energy consumption. Continued economic development and industry retention depends upon safe, reliable, and affordable energy generation.

(6) South Carolina will need to continue moving toward reliable

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power from emerging energy sources to ensure continued economic growth and secure energy for residential usage.

(7) The EPI shall collaborate across South Carolina in coordination with SC Nexus, Savannah River National Laboratory, energy utility providers, private industry, and workforce development to deliver advice on policy creation aligned with the state's distinctive needs and opportunities. EPI shall support and collaborate with SC Nexus, a consortium of public and private entities, formed within the South Carolina Department of Commerce concerning power generation, transmission, and storage.

Section 58-38-30. (A) The EPI shall be established by the University of South Carolina to serve as an expert and reliable advisory resource for state policymakers, government, and industry. This institute shall bring together a coalition of experts from various domains within the energy ecosystem, individuals and organizations specializing in innovating public policy approaches, as well as specialists from across higher education, including but not limited to, the University of South Carolina, Clemson University, and South Carolina State University. The EPI shall aid South Carolina in developing a strategic long-term approach to address energy-related challenges and economic development opportunities for the State of South Carolina.

(B) The EPI shall be governed by a board of six members which shall provide oversight and guidance to the EPI. This board shall be composed of:

- (1) Speaker of the House of Representatives or his designee;
- (2) President of the Senate or his designee;
- (3) Chairman of the Ways and Means Committee of the House of Representatives, or his designee;
- (4) Chairman of the Finance Committee of the Senate or his designee;
- (5) Chairman of the Labor, Commerce and Industry Committee of the House of Representatives or his designee; and
- (6) Chairman of the Judiciary Committee of the Senate or his designee.

Section 58-38-40. (A) Annual deliverables for the EPI shall align with the goals and priorities of critical state objectives and legislative needs of South Carolina as determined by the board.

(B) The EPI shall prepare concise and informative documents that outline the key energy policy issues in South Carolina for members of the South Carolina General Assembly. These briefs shall offer evidence-based recommendations and their potential impacts to assist

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the legislature in decision making.

(C) The EPI shall provide in-depth research on various aspects of energy policy relevant to South Carolina, at the direction of the board.

(D) The EPI shall provide stakeholder engagement reports, including identification and engagement with relevant stakeholders in the energy sector, including industry representatives, environmental groups, consumer advocates, and community organizations. The EPI shall compile reports on stakeholder perspectives, concerns, and suggestions to aid the legislature in understanding different viewpoints.

(E) The EPI shall evaluate the economic implications of different energy policy options, including the potential costs and benefits to the state's economy, job market, industry competitiveness, and underdeveloped communities. The EPI must use modeling techniques to estimate direct and indirect impacts on various sectors.

(F) The EPI shall develop practical framework recommendations for implementing energy policies in South Carolina, considering regulatory mechanisms, enforcement mechanisms, and coordination between different government agencies. These frameworks must address potential challenges and propose strategies for successful implementation.

(G) The EPI may host fellowships by which entities could offer the time and services of employees by which the EPI could leverage the knowledge, experience, and participation of such entities.

SECTION 9. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-195. (A)(1) The General Assembly finds:

(a) The Public Service Commission, hereinafter referred to as "the commission", issued Order No. 2023-860 approving Dominion Energy South Carolina, Inc.'s integrated resource plan, and Order No. 2024-171 approving the South Carolina Public Service Authority's integrated resource plan. The commission determined these integrated resource plans represented the most reasonable and prudent means to meet each utility's energy and capacity needs as of the time each integrated resource plan was reviewed.

(b) Dominion Energy South Carolina, Inc.'s integrated resource plan identified a natural gas combined cycle unit as the optimum replacement unit for the Williams Station, which Dominion Energy South Carolina, Inc. intends to retire in 2030, assuming replacement capacity is available at that time. Dominion Energy South Carolina, Inc. proposed to locate this natural gas combined cycle unit facility at the site of its now retired Canadys coal plant, and Dominion



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Energy South Carolina, Inc. is pursuing a plan to build it jointly with the Public Service Authority under a Memorandum of Understanding, also referred to as the “Joint Resource”.

(c) The commission found that Dominion Energy South Carolina, Inc.’s Reference Build Plan replacing the Williams Station with the Joint Resource best meets the criterion of “consumer affordability and least cost” pursuant to Section 58-37-40(C)(2)(b).

(d) The commission found that the Public Service Authority’s Preferred Portfolio, referred to as “Supplemental”, as the preferred plan to guide the Public Service Authority’s generation and transmission planning over the next three years, with updates as necessary, represented the most reasonable and prudent means of meeting the Public Service Authority’s energy and capacity needs.

(e) The commission found the Supplemental is 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.

(f) The commission determined the Public Service Authority sufficiently considered alternatives to the natural gas combined cycle unit.

(g) The commission found that the Supplemental allows the Public Service Authority to meet the electric power needs of its retail and wholesale customers reliably and affordably, reduces its carbon footprint, and adds flexibility and innovation to support a growing state economy.

(2) The General Assembly encourages Dominion Energy South Carolina, Inc. and the Public Service Authority to jointly complete evaluations related to the Joint Resource and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or authorize construction and operation of the facilities subject to this section in preference to all other pending nonemergency applications or requests. The General Assembly finds adding natural gas generation capacity at the retired Canadys coal site would advance the economy and general welfare of the State based on current conditions and information as of the effective date of this Act. However, this subsection does not exempt the entities from complying with the requirements of the Utility Facility Siting and Environmental Protection Act, including the requirement to seek commission approval

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for a certificate of environmental compatibility and public convenience and necessity nor does this subsection limit the commission's independent decision-making authority. The entities are further encouraged to use existing rights of way to the greatest extent practicable.

(B) The General Assembly hereby encourages Duke Energy Carolinas, LLC to complete evaluations for constructing a second powerhouse using the existing reservoir at Bad Creek Pumped Hydro Station in Oconee County, South Carolina, which will approximately double the size and peak hourly capacity of the facility, and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly further encourages Duke Energy Carolinas, LLC to complete evaluations as to what may be necessary to interconnect such an expansion of Bad Creek Pumped Hydro Station to the electric grid or otherwise deliver electric power from Duke Energy Carolinas, LLC to its customers, and to include such information as may be necessary from such evaluations in a filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction and operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(C) The General Assembly hereby encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to complete evaluations for constructing hydrogen capable natural gas generation or otherwise to place into service such natural gas generation within the utilities' balancing areas serving South Carolina, and to use such information from the evaluations as may be necessary to make a filing as soon as practicable with the commission to obtain a certification pursuant to Article 3 of this chapter or as otherwise required by law. The General Assembly further encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to determine what facilities may be necessary to interconnect such natural gas generation to the electric grid or otherwise deliver electric power from the utilities to its customers, and to include such information in any filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction or operation of the facilities subject to this subsection in preference of all

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other pending nonemergency applications or requests.

(D)(1) In the event any of the projects described in subsections (A), (B), or (C) are approved, the Office of Regulatory Staff, using its authority provided in Title 58, must continuously monitor the project or projects. This includes, but is not limited to, a review of the construction in progress, such as meeting projected timelines and financial projections are met. The Office of Regulatory Staff must provide monthly updates, in writing, to the commission and to the members of the General Assembly. Each electrical utility and the Public Service Authority must cooperate to the fullest extent with the Office of Regulatory Staff.

(2) The commission may, on its own motion, schedule a hearing to address concerns raised by the Office of Regulatory Staff in its written monthly review to the commission.

(3) The commission shall consider the Office of Regulatory Staff's written monthly reviews in any future matters concerning any facility described in this section.

SECTION 10. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-205. (A) The Public Service Authority shall have the power to jointly own, as tenants-in-common or through a limited liability company, with investor-owned electric utilities of electrical generation and transmission facilities, the power to plan, finance, acquire, own, operate, and maintain an interest in such plants and facilities necessary or incidental to the generation and transmission of electric power and the power to make plans and enter into such contracts as are necessary or convenient for the planning, financing, acquisition, construction, ownership, operation, and maintenance of such plants and facilities. However, the Public Service Authority shall own a percentage of such plants and facilities equal to the percentage of the money furnished or the value of property supplied by the Public Service Authority for the acquisition and construction of the plants and facilities. The Public Service Authority shall also own and control a like percentage of the electrical output thereof.

(B) The Public Service Authority shall be severally liable in proportion to its ownership share of such plants and facilities acquired pursuant to this section for the acts, omissions, or obligations performed, omitted, or incurred by the operator or other owners of the plants and facilities while acting as the designated agent of the Public Service Authority for the purposes of constructing, operating, or maintaining the plants and facilities, or any of them. However, the Public Service

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Authority shall not be otherwise liable, jointly or severally, for the acts, omissions, or obligations of other owners of the plants and facilities, nor shall any money or property of the Public Service Authority be credited or otherwise applied to the account of the operator or other owners of the plants and facilities, or be charged with any debt, lien, or mortgage as a result of any debt or obligation of the operator or other owners of the plants and facilities.

SECTION 11. Article 9, Chapter 7, Title 13 of the S.C. Code is amended to read:

Article 9

Governor's Nuclear Advisory Council

Section 13-7-810. There is hereby established a Nuclear Advisory Council in the ~~Department of Administration, Office of Regulatory Staff~~, which shall be responsible to the Executive Director of the ~~Department of Administration, Office of Regulatory Staff~~ and report to the Governor.

Section 13-7-820. The duties of the council, in addition to such other duties as may be requested by the Governor, shall be:

(1) to provide advice and recommendations to the Governor on issues involving the use, handling, and management of the transportation, storage, or disposal of nuclear materials within South Carolina, or such use, handling, transportation, storage, or disposal of nuclear materials outside of the State which may affect the public health, welfare, safety, and environment of the citizens of South Carolina;

(2) to provide advice and recommendations to the Governor regarding matters pertaining to the Atlantic Compact Commission;

(3) to provide advice and recommendations to the Governor regarding the various programs of the United States Department of Energy pertaining to nuclear waste;

(4) to meet at the call of the chair or at a minimum twice a year; and

(5) to engage stakeholders and develop a strategic plan to advance the development of advanced nuclear generation including small modular reactors, molten salt reactors, and spent nuclear fuel recycling facilities to serve customers in this State in the most economical manner at the earliest reasonable time possible.

Section 13-7-830. The recommendations described in Section ~~13-7-620~~ 13-7-820 shall be made available to the General Assembly and the Governor.

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Section 13-7-840. The council shall consist of ~~nineteen~~ members. One at-large member shall be appointed by the Speaker of the House of Representatives and one at-large member shall be appointed by the President of the Senate. ~~Seven~~Eight members shall be appointed by the Governor as follows: two shall be actively involved in the area of environmental protection; one shall have experience in the generation of power by nuclear means; one shall have experience in the field of nuclear activities other than power generation; two shall be scientists or engineers from the faculties of institutions of higher learning in the State; and ~~one~~two shall be from the public at large; of which one shall be appointed to serve as the chairman and director of the Nuclear Advisory Council. The terms of the members of the council appointed by the Governor shall be coterminous with that of the appointing Governor, but they shall serve at the pleasure of the Governor.

Vacancies of the council shall be filled in the manner of the original appointment.

Section 13-7-850. The Governor shall designate the chairman from the membership. When on business of the council, members shall be entitled to receive such compensation as provided by law for boards and commissions.

Section 13-7-860. Staff support for the council shall be provided by the ~~Department of Administration~~Office of Regulatory Staff. The Director of the Nuclear Advisory Council must be a full-time employee of the Office of Regulatory Staff.

SECTION 12. Section 37-6-604(C) of the S.C. Code is amended to read:

(C) ~~The~~As of July 1, 2025, the Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission that Advocate's duties regarding intervention in matters that could impact consumers' utility rates, and may intervene as a party and ability to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate are transferred to the Office of Regulatory Staff in order to promote efficiency and avoid duplication of duties.

SECTION 13. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-196. Electrical utilities and the Public Service Authority are encouraged to explore the potential for deploying advanced nuclear facilities including, but not limited to, small modular nuclear facilities at suitable sites. Suitable sites may include sites of

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current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and other brownfield sites, such as coal-generation sites. Any utility pursuing deployment of such nuclear facilities must provide annual progress reports to the commission and the Public Utilities Review Committee; this report may be in writing or in the form of testimony in an appropriate proceeding. The utility must provide estimates of the cost of the studies including, but not limited to, planning, licensing, and project development to the commission. If the commission finds such estimated costs are reasonable, prudent, and in the public interest, such costs may be recoverable through rates as they are incurred. Nothing in this section relieves an electrical utility of the burden of filing for a certificate under this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 14. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-70. (A) It is the policy of this State to promote the development and operation of advanced nuclear facilities, including small modular nuclear reactors, in the most economical manner and at the earliest reasonable time possible. These facilities are intended to provide electricity that is reliable, resilient, secure, and free of carbon dioxide emissions, as well as promote this state's economic development and industry retention.

(B) As used in this section:

(1) "Electrical utility" has the same meaning as provided in Section 58-27-10(7) and includes the South Carolina Public Service Authority.

(2) "Site" means the geographic location of one or more small modular nuclear reactors.

(3) "Small modular nuclear reactor" means an advanced nuclear reactor that produces nuclear power and has a power capacity of up to 500 megawatts per reactor.

(C) The commission may establish a small modular nuclear reactor pilot program, if such a program is endorsed by the Nuclear Advisory Council. A pilot program must include the following requirements:

(1) any entity that holds a current license from the U.S. Nuclear Regulatory Commission to construct or operate at least one existing nuclear electrical generating facility at the time of the application may apply to the commission for a certificate of public convenience and necessity pursuant to the Utility Facility Siting and Environmental Protection Act;

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(2) a certificate may be granted if obtaining a certification of public convenience and necessity would permit the applicant to apply for, use, or leverage at least thirty percent of the construction costs of the small modular nuclear reactor by utilizing any benefits or incentives available to lower the capital or operating costs including, but not limited to, governmental funds, tax credits, grants, and loan guarantees;

(3) the costs and benefits of a small modular nuclear reactor are reasonable and prudent compared to the levelized costs of electricity generation from other resources, applying any governmental tax credits and incentives. Factors that must be considered in levelized costs include fuel factors, economic and environmental benefits, and costs associated with any relative externalities;

(4) no more than three small modular nuclear reactors may receive a permit pursuant to this pilot program.

(D) An application for this pilot program must include:

(1) if the project's location:

(a) is on or adjacent to an existing or former coal electrical generation site;

(b) is on or adjacent to an existing nuclear facility;

(c) enables coal plant retirement or emissions reduction in the electrical utility's or the South Carolina Public Service Authority's balancing area; or

(d) supports diversity in energy production, reliability, and energy security;

(2) if the project is subject to competitive procurement or solicitation for services and equipment;

(3) a demonstration that the program's costs and benefits are reasonable and prudent and in the interest of South Carolina customers; and

(4) any other information the commission may wish to include in the application.

Nothing in this subsection limits any factors that the commission may consider in its determination of an application.

(E)(1) Reasonable and prudent costs incurred for a small modular nuclear reactor approved pursuant to this section shall be recoverable. In the event an electrical utility abandons a small modular nuclear reactor approved by the commission before its commercial operation, the electrical utility must provide a fulsome accounting to the commission of the circumstances of abandonment. Capital costs may only be recovered if the commission determines that the decision to abandon was reasonable, prudent, and in the public interest; however, these costs shall

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not include a rate of return. The commission may impose conditions it determines to be necessary to protect customers against unreasonable construction, development, or operational risk including, but not limited to, reporting, inspection, and the potential of requiring the utility to hire an independent third-party construction monitor to evaluate the prudence of the utility's actions and associated expense during the development of the project and construction of the reactor.

(2) The commission must not allow any cost recovery related to a small modular nuclear reactor outside of a rate case.

(F)(1) In addition to the small modular nuclear facility pilot program, electrical utilities and the South Carolina Public Service Authority are encouraged to evaluate the potential for deploying nuclear facilities at suitable sites within this State. A "suitable site" may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and brownfield sites, such as coal generation sites.

(2) When evaluating the potential of a nuclear facility, the applicant must provide notice and annual progress reports to the Public Utilities Review Committee, the Nuclear Advisory Council, and the commission. When available, the applicant must also provide cost estimates of the studies related to a potential nuclear facility to serve customers in South Carolina. This includes, but is not limited to, planning, licensing, and project development, the anticipated timeline of an early site permit, and current possibilities or barriers to co-ownership of such facilities, and available federal benefits which may defray costs of these facilities.

(3) In the event the commission finds cost estimates pursuant to item (2) are reasonable and prudent, the costs may be recoverable through rates, even if an application for a certificate of environmental compatibility and public convenience and necessity have not been filed. However, these costs shall not include a rate of return.

(G) Nothing in this section relieves an electrical utility or the South Carolina Public Service Authority of the burden of filing for a certificate pursuant to this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 15. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Article 3

Energy Infrastructure Projects

Section 58-37-100. As used in this article:

(1) "Agency" means any agency, department, board, commission,

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or political subdivision of this State. However, it does not include the Public Service Commission, except for Sections 58-37-110 and 58-37-120.

(2) “Application” means a written request made to an agency for grant of a permit or approval of an action of matter within the agency’s jurisdiction pertaining to an energy infrastructure project.

(3) “Brownfield energy site” means an existing or former electrical generating site or other existing or former industrial site.

(4) “Energy corridor” means a corridor in which a utility or the South Carolina Public Service Authority has:

(a) transmission lines with a rated voltage of at least 110 kilovolts, including the substations, switchyards, and other appurtenant facilities associated with such lines; or

(b) high pressure natural gas transmission pipelines and the metering, compression stations, valve station, and other appurtenant facilities associated with such lines.

(5) “Energy corridor project” means an energy infrastructure project that involves the expansion of electric or natural gas delivery capacity in whole or in principal part within an existing energy corridor.

(6) “Energy infrastructure project” means the construction, placement, authorization, or removal of energy infrastructure including, but not limited to, electric transmission and generation assets, natural gas transmission assets, and all associated or appurtenant infrastructure and activities, including communications and distribution infrastructure.

(7) “Permit” means a permit, certificate, approval, registration, encroachment permit, right of way, or other form of authorization.

(8) “Person” means an individual, corporation, association, partnership, trust, agency, or the State of South Carolina.

Section 58-37-110. (A) Given the importance of sufficient, reliable, safe, and economical energy to the health, safety, and well-being of the citizens of South Carolina and to the state’s economic development and prosperity, the General Assembly finds that the prompt siting, permitting, and completion of energy infrastructure projects, energy corridor projects, and brownfield electrical generation projects are crucial to the welfare of the State.

(B) All state agencies are instructed to give expedited review of applications for energy infrastructure projects, to provide reasonable and constructive assistance to applicants to allow the applicants to comply with state law and regulatory requirements as expeditiously as possible, and to be guided by the policy goals established in subsection (A).

(C) All state agencies are instructed to give due weight to the

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reduction in the environmental, aesthetic, and socioeconomic impacts that are incurred to support the safe, reliable, and economic provision of energy to the people of South Carolina when energy infrastructure projects can be located in existing energy corridors or on brownfield energy sites, and shall consider the relative reductions in such impacts compared to greenfield projects in evaluating projects in existing energy corridors or on brownfield energy sites.

Section 58-37-120. (A) Any agency presented with an application for a permit for an energy infrastructure project shall issue a decision on the application no later than six months after the date the application is received by the agency. If the agency fails to take final action within six months of receipt of the application, the application shall be deemed approved, and the agency shall promptly issue documentation that the applicant may reasonably request establishing that the agency has granted the relief requested.

(B) Upon receipt of an application, the agency shall promptly review it for sufficiency and shall provide the applicant with a list of all deficiencies within thirty days of receipt. The identification of by the agency of deficiencies in the application shall not toll the six-month period for agency determination.

Section 58-37-130. The applicant or any person whose private rights are affected by an agency decision or action on an application for a permit for any energy infrastructure project may appeal that decision or action to the South Carolina Supreme Court. The Supreme Court shall hear these appeals as a direct appeal in accordance with the South Carolina Appellate Court Rules. The Court shall provide for an expedited briefing and hearing of the appeal, in preference to all other nonemergency matters on its docket, and decide such appeals on an expedited basis.

Section 58-37-140. The provisions of this article shall expire ten years after its effective date.

SECTION 16. Section 58-40-10(C) of the S.C. Code is amended to read:

(C) “Customer-generator” means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates or discharges electricity from a renewable energy resource, including an energy storage device configured to receive electrical charge solely from an onsite renewable energy resource;

(2) has an electrical generating system with a

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capacity of:

(a)(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(ii) after June 1, 2024, not more than the lesser of five thousand kilowatts (5,000kW AC) or one hundred percent of contract demand for a nonresidential customer, provided the customer-generator is on a time-of-use rate schedule and any excess energy produced by the customer-generator is credited and reset at the end of each monthly period; or

(iii) more than five thousand kilowatts (5,000kW AC) if agreed to by the customer-generator and the electrical utility, provided that the electrical utility submits the agreement to the commission for consideration and approval if the commission finds the agreement to contain appropriate ratemaking provisions and is in the public interest; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

SECTION 17. Section 58-41-30 of the S.C. Code is amended to read:

Section 58-41-30. (A) The ability to utilize clean energy resources for electric power generation is important to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State.

(B) The commission shall be responsive to the clean energy needs of customers and the economic development and industry retention implications for the State when reviewing and approving voluntary clean energy programs. The commission shall consider updates to these voluntary renewable energy programs on an ongoing

basis.

(C) Within one hundred and twenty days of the effective date of this chapter, ~~subject to subsection (F)~~, each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the commission, unless as of July 1, 2024, the electrical utility already has a voluntary renewable energy program that conforms with the requirements of this section on file with the commission. The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties shall have the right to participate in the proceeding. The commission ~~may~~must periodically hold additional proceedings to ~~update the program~~ evaluate whether updates to the programs are necessary. At a minimum, each electrical utility must submit to the commission a program for which the program shall provide that:

(1) the participating customer shall have the right to select the renewable energy facility and negotiate with the renewable energy supplier on the price to be paid by the participating customer for the energy, capacity, and clean energy environmental attributes of the renewable energy facility and the term of such agreement so long as such terms are consistent with the voluntary renewable program service agreement as approved by the commission;

(2) the renewable energy contract and the participating customer agreement must be of equal duration;

(3) in addition to paying a retail bill calculated pursuant to the rates and tariffs that otherwise would apply to the participating customer, reduced by the amount of the generation credit, a participating customer shall reimburse the electrical utility on a monthly basis for the amount paid by the electrical utility to the renewable energy supplier pursuant to the participating customer agreement and renewable energy contract, plus an administrative fee approved by the commission; and

(4) eligible customers must be allowed to bundle their demand under a single participating customer agreement and renewable energy contract and must be eligible annually to procure an amount of capacity as approved by the commission.

(D) The commission must approve voluntary renewable energy programs, in addition to those provided for in subsection (C), where the participating customer purchases clean energy environmental attributes of new or existing renewable energy facilities owned and operated and recovered on a cost-of-service basis by the electrical utility or otherwise supplies through the execution of

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agreements with third parties within the utility's balancing authority area. Voluntary renewable energy programs shall also facilitate behind-the-meter options for customers and access to renewable energy resource generation.

~~(B)~~(E) The commission may approve a program that provides for options that include, but are not limited to, both variable and fixed generation credit options.

~~(C)~~(F) The commission ~~may~~ shall limit the total portion of each electrical utility's voluntary renewable energy program that is eligible for the program at a level consistent with the public interest and shall provide standard terms and conditions for the participating customer agreement and the renewable energy contract, subject to commission review and approval.

~~(D)~~(G) A participating customer shall bear the burden of any reasonable costs associated with participating in a voluntary renewable energy program. ~~An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section. Purchased power costs incurred by an electrical utility as a result of subsection (C) shall be recovered in the electrical utility's fuel clause pursuant to Section 58-27-865.~~

~~(E)~~(H) A renewable energy facility may be located anywhere in the electrical utility's service territory within the utility's balancing authority.

~~(F) If the commission determines that an electrical utility has a voluntary renewable energy program on file with the commission as of the effective date of this chapter, that conforms with the requirements of this section, the utility is not required to make a new filing to meet the requirements of subsection (A).~~

SECTION 18. Section 58-41-10 of the S.C. Code is amended by adding:

(17) "Energy storage facilities" means any commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time including, but not limited to, electrochemical, thermal, and electromechanical technologies.

SECTION 19. Section 58-41-20 of the S.C. Code is amended to read:

Section 58-41-20. (A) As soon as is practicable after the effective date of this chapter, the commission shall open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within six months after the effective date of

this chapter, and at least once every twenty-four months thereafter, the commission shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within such proceeding the commission shall approve one or more standard form power purchase agreements for use for qualifying small power production facilities not eligible for the standard offer. Such power purchase agreements shall contain provisions, including, but not limited to, provisions for force majeure, indemnification, choice of venue, and confidentiality provisions and other such terms, but shall not be determinative of price or length of the power purchase agreement. The commission may approve multiple form power purchase agreements to accommodate various generation technologies and other project-specific characteristics. This provision shall not restrict the right of parties to enter into power purchase agreements with terms that differ from the commission-approved form(s). Any decisions by the commission shall be just and reasonable to the ratepayers of the electrical utility, in the public interest, consistent with PURPA and the Federal Energy Regulatory Commission's implementing regulations and orders, and nondiscriminatory to small power producers; and shall strive to reduce the risk placed on the using and consuming public.

(1) Proceedings conducted pursuant to this section shall be separate from the electrical utilities' annual fuel cost proceedings conducted pursuant to Section 58-27-865.

(2) Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(B) In implementing this chapter, the commission shall treat small power producers on a fair and equal footing with electrical utility-owned resources by ensuring that:

(1) rates for the purchase of energy and capacity fully and accurately reflect the electrical utility's avoided costs;

(2) power purchase agreements, including terms and conditions, are commercially reasonable and consistent with regulations and orders promulgated by the Federal Energy Regulatory Commission implementing PURPA; and

(3) each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility or incurred by the electrical utility, including, but not limited to, energy, capacity, and ancillary services provided by or consumed by small power producers

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including those utilizing energy storage equipment. Avoided cost methodologies approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility.

(C) The avoided cost rates offered by an electrical utility to a small power producer not eligible for the standard offer must be calculated based on the avoided cost methodology most recently approved by the commission. In the event that a small power producer and an electrical utility are unable to mutually agree on an avoided cost rate, the small power producer shall have the right to have any disputed issues resolved by the commission in a formal complaint proceeding. The commission may require mediation prior to a formal complaint proceeding.

(D) A small power producer shall have the right to sell the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

(E)(1) Electrical utilities shall file with the commission power purchase agreements entered into pursuant to PURPA, resulting from voluntary negotiation of contracts between an electrical utility and a small power producer not eligible for the standard offer.

(2) The commission is authorized to ~~open a generic docket for the purposes of creating programs~~ approve programs proposed by electrical utilities for the competitive procurement of energy and capacity from renewable energy facilities and, at the electrical utility's option, associated co-located energy storage by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

(3) In establishing standard offer and form contract power purchase agreements, the commission shall consider whether such power purchase agreements should prohibit any of the following:

- (a) termination of the power purchase agreement,

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collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or

(b) the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including, but not limited to, a reduction in the contract price relative to the ten year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to subsection (A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

(2) Once an electrical utility has executed interconnection agreements and power purchase agreements with qualifying small power production facilities located in South Carolina with an aggregate nameplate capacity equal to twenty percent of the previous five-year average of the electrical utility's South Carolina retail peak load, that electrical utility shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with the terms, conditions, rates, and terms of length for contracts as determined by the commission in a



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separate docket or in a proceeding conducted pursuant to subsection (A). The commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state's policy of encouraging renewable energy.

(3) Any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that have been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities within the electrical utility's balancing authority area in South Carolina may competitively procure new renewable energy capacity pursuant to that competitive solicitation process as a means of complying with the Public Utility Regulatory Policies Act. Further, the commission must establish a five-year term for energy purchased at administratively established avoided cost rates outside of competitive procurement of renewable energy resources, with the exception of voluntarily negotiated agreements to serve the public interest, for any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that has been approved by the commission if the commission determines that doing so will incentivize participation in the competitive procurement process.

(G) Nothing in this section prohibits the commission from adopting various avoided cost methodologies or amending those methodologies in the public interest.

(H) Unless otherwise agreed to between the electrical utility and the small power producer, a power purchase agreement entered into pursuant to PURPA may not allow curtailment of qualifying facilities in any manner that is inconsistent with PURPA or implementing regulations and orders promulgated by the Federal Energy Regulatory Commission.

~~(I) The commission is authorized to employ, through contract or otherwise, third party consultants and experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The~~

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~~qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the report are intended to be used by the commission along with all other evidence submitted during the proceeding to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third-party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility during the development of the report and whether there were any material information requests that were not adequately fulfilled by the electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. 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.~~

~~(F)~~ (I) Each electrical utility's avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission. The commission may approve any confidentiality protections necessary to allow for independent review and verification of the avoided cost filing.

SECTION 20. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-25. (A) Unless an electrical utility makes an application pursuant to subsection (F) or (G), electrical utilities may file for commission approval of a program for the competitive procurement of renewable energy facilities which may also include, at the utility's option, associated co-located energy storage facilities, also referred to as "eligible facilities", or purchase one-hundred percent of the output from such eligible facilities, including all energy, capacity, ancillary services, and environmental and renewable attributes. Eligible facilities may be located anywhere in the electrical utility's balancing authority area to

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meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan and associated filings. The commission may not grant approval unless the commission finds and determines that the electrical utility satisfied the requirements of this section and the proposed program is just and reasonable and in the best interests of the electrical utility's customers.

(B) An electrical utility's competitive procurement program filed pursuant to this section must describe the solicitation process, eligibility criteria, timelines, bid evaluation methodology, and identify whether resources procured are intended to also service customer-directed renewable energy procurement programs. The program must be designed to procure renewable energy facilities and at the utility's election, associated co-located energy storage resources, or the output of those facilities, subject to the following requirements:

(1) renewable energy facilities, and if applicable, energy storage resources, or their output, must be procured via a competitive solicitation process open to all market participants that meet minimum stated eligibility requirements;

(2) the electrical utility shall issue public notification of its intention to issue a competitive solicitation to procure renewable energy facilities and associated co-located energy storage facilities, if applicable, at least ninety days prior to the release of the solicitation, including identifying the proposed target procurement volume, procurement process, and timeline for administering the solicitation;

(3) renewable energy facilities eligible to participate in competitive procurement are those that use renewable generation resources identified in Section 58-39-120(F), which must also satisfy that electrical utility's capacity, energy, or operational needs, as identified by the electrical utility, and take into account the required operating characteristics of the needed capacity;

(4) energy storage facilities, if included by the electrical utility in the solicitation, must be associated equipment located at the same site as the renewable energy facility;

(5) electrical utilities may seek to ensure that their procurement of eligible facilities results in a reasonable balance of ownership of eligible facilities between such utility, including its affiliates and unrelated market participants, and may offer self-developed proposals. However, if an electrical utility or its affiliate seek to participate in the procurement, the electrical utility's program must include an independent evaluator to evaluate all bids offered and to ensure they are fairly and competitively evaluated. For purposes of this section,

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“independent evaluator” means an independent third party retained by the electrical utility that has no ownership in the electrical utility or a market participant and has the skills and experience necessary to oversee the solicitation process and provide the utility with an independent evaluation of all proposals for ultimate selection. At the conclusion of the solicitation, the independent evaluator shall report to the commission on the openness and fairness of the bid evaluation process and certify that the selection of proposals adhered to the evaluation methodology and requirement of the program.

(C) An electrical utility must make the following publicly available at least forty-five days prior to each competitive solicitation:

(1) pro-forma contract to inform prospective market participants of the procurement terms and conditions for the output purchased by the electrical utility from eligible resources. The pro-forma contract must:

(a) provide for the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities owned and operated by third parties that commit to allow the procuring electrical utility rights to dispatch, operate, and control the solicited renewable energy facilities in the same manner as the electrical utility’s own generating resources;

(b) include standardized and commercially reasonable requirements for contract performance security; and

(c) define limits and compensation for resource dispatch and curtailments.

In the event an electrical utility chooses to procure output from co-located storage, the pro-forma contract must also cover similar terms and conditions as specified herein for those eligible facilities.

(2) pro-forma agreements to govern the procurement of eligible facilities by the electrical utility from market participants;

(3) bid evaluation methodology that ensures all bids are treated equitably, including price and non-price evaluation criteria; and

(4) interconnection requirements, including specification of how bids without existing interconnection agreements will be treated for purposes of evaluation.

(D) After bids are submitted and evaluated, the electrical utility will elect the winning bids based upon the public evaluation methodology.

(E) An electrical utility shall file with the commission a public report summarizing the results of each competitive solicitation within thirty days of finalizing the contract with the winning bidder. The report must include, at a minimum, a summary of the bids received and an anonymized list of the project awards, including size, location, and

average award price and tenor.

(F) Notwithstanding the requirements in subsections (B) and (C), the results of all other competitive procurement programs undertaken by an electrical utility within its balancing authority area outside of South Carolina that will serve customers in the electrical utility's balancing authority area within South Carolina and are open to equal participation by eligible facilities located within South Carolina may be approved by the commission if the commission determines such programs enable economic, reliable, and safe operation of the electricity grid in a manner consistent with the public interest. For purposes of this section, "public interest" shall also include the ability of customers to subscribe to customer programs which leverage the competitively procured solar and potential storage contemplated within this section. Any electrical utility that requests acceptance of a system-wide procurement pursuant to this section must demonstrate to the commission that the utility has adhered to subsection (D) as defined in that specific competitive procurement program and submit the post solicitation report to the commission, as required by subsection (E).

(G) The commission may determine that a competitive procurement program within an electrical utility's balancing authority area outside of South Carolina that serves customers in the utility's area within South Carolina and is open to equal participation by eligible facilities located within South Carolina satisfies the requirements of this section.

(H) Electrical utilities are permitted to recover costs incurred pursuant to this section, including reasonable and prudent administrative costs to develop and propose procurements under this section, and if approved by the commission, the costs resulting from such procurements through rates established pursuant to Section 58-27-865 or otherwise through rates established pursuant to Section 58-27-870. If the commission denies an application made pursuant to subsection (F) or (G) of this section, and the utility continues with the procurement, then the utility must allocate all costs and benefits associated with the resources being procured away from South Carolina customers.

(I) An electrical utility administering a program for the competitive procurement of renewable energy resources and storage facilities that has been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities located in South Carolina may utilize such programs as means to satisfy its purchase obligations for avoidable capacity from qualifying small power production facilities under the Public Utility Regulatory Policies Act, consistent with Section 58-41-20(F)(3).

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SECTION 21.A. Section 58-33-20 of the S.C. Code is amended by adding:

(10) The term “like facility” with reference to generation facilities and without limitation, includes a facility or facilities that are proposed to provide capacity on a site currently or previously used for siting electric generation that replaces the capacity of a facility or facilities that are being retired, downrated, mothballed, or dedicated to standby or emergency service at the same site, limited to facilities no more than 300 megawatts, so long as those new facilities will provide an amount of effective load-carrying capacity that in whole or in part will serve to replace the capacity to be lost as a result of retirement, and includes associated transmission facilities needed to deliver power from that facility to customers. A “like facility” with reference to transmission facilities, and without limitation, includes any facility that represents the rebuilding, reconductoring, paralleling, increasing voltage, adding circuits or otherwise reconfiguring of an existing transmission line or other transmission facilities including, without limitation, projects to increase the capacity of such facilities, provided such facilities are: (a) located materially within a utility right of way or corridor; (b) located materially within a new right of way or corridor; or (c) substantially located on the property of a customer, prospective customer, or the State.

B. Section 58-33-20(2)(a) of the S.C. Code is amended to read:

(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 or that requires a footprint of more than one hundred twenty-five acres of land.

SECTION 22. Article 3, Chapter 33, Title 58 of the S.C. Code is amended to read:

Article 3

Certification of Major Utility Facilities

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. Upon application for a determination by the Commission that a proposed utility facility constitutes a like facility replacement, the Commission must issue a written order approving or denying the application within sixty days of filing. If the Commission fails to issue a written order within sixty days of the application’s filing, the application

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shall be deemed as approved. 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;

(d) which is a hydroelectric generating facility over which the ~~Federal Power Commission~~Federal Energy Regulatory Commission has licensing jurisdiction; or

(e) which is a transmission line or associated electrical transmission facilities constructed by the South Carolina Public Service Authority; (i) for which construction either is commenced within one year after January 1, 2022; or (ii) which is necessary to maintain system reliability in connection with the closure of the Winyah Generating Station, provided that such transmission is not for generation subject to this chapter; or (iii) which is necessary to serve an identified commercial or industrial customer to promote economic development or industry retention as determined by the South Carolina Public Service Authority and agreed to by the Office of Regulatory Staff where such agreement is documented in a letter by the Office of Regulatory Staff to the Public Utilities Review Committee and the

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commission.

(5) Any person intending to construct a major utility facility excluded from this chapter pursuant to subsection (4) of this section or Section 58-33-20(10) 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,~~ No permission from the Commission shall be required to proceed with initial clearing, excavation, dredging, and initial construction of any facility which constitutes a component of the preferred generation plan in an integrated resource plan or update approved by the Commission pursuant to Chapter 37 of this title, or any like facility; provided 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)(a) Notwithstanding the provisions of item (7), and not limiting the provisions above, a person may not commence construction of a major utility facility for generation in the State of South Carolina without first having made a demonstration. In seeking a certificate, the applicant must provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost, reliability, schedule constraints, fuel cost and availability, transmission constraints and costs, ancillary services capabilities, current and reasonably expected future environmental costs and restrictions, that the facility supports system~~



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efficiency and reliability in light of those considerations, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. The commission is authorized to adopt rules for such evaluation of other generation options.

~~(b) The commission may, upon a showing of a need, require a commission approved process that includes Office of Regulatory Staff may provide to the commission a report that includes any or all of the following:~~

~~(i) the an assessment of an unbiased independent evaluator retained by the Office of Regulatory Staff as to reasonableness of any certificate sought under this section for new generation;~~

~~(ii) a report from the independent evaluator to the commission regarding the transparency, completeness, and integrity of bidding processes, if any;~~

~~(iii) an assessment of whether there was a reasonable period for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade secrets that could hamper future negotiations; however, the independent evaluator may access all such information;~~

~~(iv) independent evaluator access and review of final bid evaluation criteria and pricing information for any and all projects to be evaluated in comparison to the request for proposal bids received;~~

~~(v) access through discovery, subject to appropriate confidentiality, attorney-client privilege or trade secret restrictions, for parties to this proceeding to documents developed in preparing the certificate of public convenience and necessity application;~~

~~(vi) (iv) a demonstration that an assessment of whether the facility is consistent with an integrated resource plan or update approved by previously filed with the commission or is otherwise justified by generation planning modeling comparable to that filed as part of the utility's integrated resource plan but updated with current data concerning system loads, fuel prices, environmental regulations, location-specific transmission costs, updated construction costs and updated construction timelines, updated costs of gas supply facilities, if any, and other relevant costs, schedules or inputs establishing that the facility in question supports system economy and reliability; and~~

~~(vii) (v) an assessment detailing the treatment of utility affiliates in the same manner as compared to nonaffiliates participating in the request for proposal process, if any.~~

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(9) The applicant may, but must not be required to, issue requests for proposals or otherwise conduct market procurement activities in support of the showings required pursuant to this chapter.

(10) Notwithstanding any other provision in this section, an electrical utility serving customers in this state may seek a certificate of public convenience and necessity when building a major utility facility, as defined in Section 58-33-20(2), in another state but within the electrical utility's balancing area serving customers in South Carolina. In such a case, the provisions of Sections 58-33-120, 58-33-140, and 58-33-160(1)(b), (c), and (e) shall not apply, but all other requirements of this section affecting customers in this state shall apply. In addition:

(a) an applicant for a certificate shall file an application with the commission in such form as the commission may prescribe. The application must contain the following information:

(i) a description of the location and of the major utility facility to be built;

(ii) a summary of any studies which have been made by or for the applicant of the environmental impact of the major utility facility;

(iii) a statement explaining the need for the major utility facility;

(iv) any other information the applicant may consider relevant or as the commission may by regulation require. A copy of the report referred to in item (8)(b) must be filed with the commission, if ordered by the commission, and shall be available for public information.

(b) The parties to a proceeding for a certificate pursuant to this section shall include:

(i) the applicant;

(ii) the Office of Regulatory Staff; and

(iii) intervenors with standing as approved by the commission.

(c) If the commission denies an application made pursuant to this section and the utility continues to build such major utility facility, the utility must allocate all costs and benefits associated with the major utility facility away from the utility's South Carolina customers.

Section 58-33-120. (1) An applicant for a certificate shall file an application with the commission, in such form as the commission may prescribe. The application must contain the following

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information:

(a) a description of the location and of the major utility facility to be built;

(b) a summary of any studies which have been made by or for applicant of the environmental impact of the facility;

(c) a statement explaining the need for the facility;

and

(d) any other information as the applicant may consider relevant or as the commission may by regulation ~~or order~~ require. A copy of the study referred to in item (b) above shall be filed with the commission, if ordered, and shall be available for public information.

(2) Each application shall be accompanied by proof of service of a copy of the application on the Office of Regulatory Staff, the chief executive officer of each municipality, and the head of each state and local government agency, charged with the duty of protecting the environment or of planning land use, in the area in the county in which any portion of the facility is to be located. The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(3) Each application also must be accompanied by proof that public notice was given to persons residing in the municipalities entitled to receive notice under subsection (2) of this section, by the publication of a summary of the application, and the date on or about which it is to be filed, in newspapers of general circulation as will serve substantially to inform such persons of the application.

(4) Inadvertent failure of service on, or notice to, any of the municipalities, government agencies, or persons identified in subsections (2) and (3) of this section may be cured pursuant to orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies thereof, or both, upon such other persons, and file proof thereof, as the commission may deem appropriate.

(5) An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe. Notice of the application shall be given as set forth in subsections (2) and (3) of this section.

Section 58-33-130. (1) Upon the receipt of an application complying with Section 58-33-120, the Commission shall promptly fix a date for the commencement of a public hearing, not less

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than sixty nor more than ninety days after the receipt, and ~~shall conclude the proceedings as expeditiously as practicable~~ complete the hearing and issue an order on the merits within one hundred eighty days of receipt of the application.

\_\_\_\_\_ (2) The testimony presented at the hearing may be presented in writing or orally, - provided that the Commission may make rules designed to exclude repetitive, redundant or irrelevant testimony; however, all expert testimony must be prefiled with the Commission, with responsive expert testimony of non-applicants being received with enough time for the applicant to meaningfully respond, and in no case would expert testimony be filed less than twenty days before the hearing.

~~(2)~~(3) On an application for an amendment of a certificate, the Commission shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any significant increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility; provided, that the Public Service Commission shall forward a copy of the application to all parties upon the filing of an application.

Section 58-33-140. (1) The parties to a certification proceeding shall include:

(a) the applicant;

(b) the Office of Regulatory Staff, the Department of Health and Environmental Control, the Department of Natural Resources, and the Department of Parks, Recreation and Tourism;

(c) each municipality and government agency entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120 if it has filed with the commission a notice of intervention as a party within thirty days after the date it was served with a copy of the application; and

(d) any person residing in a municipality entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120, any domestic nonprofit organization, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interest, to represent commercial and industrial groups, or to promote the orderly development of the area in which the facility is to be located; or any other person, if such a person or organization has petitioned the commission for leave to intervene as a party, within thirty days after the date given in the published notice as the date for filing the application, and if the petition has been granted by

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the commission for good cause shown.

(2) Any person may make a limited appearance in the sixty days after the date given in the published notice as the date for filing the application. No person making a limited appearance shall be a party or shall have the right to present oral testimony or argument or cross-examine witnesses.

(3) The commission may, in extraordinary circumstances for good cause shown, and giving consideration to the need for timely start of construction of the facility, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency, person, or organization which is identified in paragraphs (b) or (c) of subsection (1) of this section, but which failed to file a timely notice of intervention or petition for leave to intervene, as the case may be.

Section 58-33-150. A record shall be made of ~~the~~any hearing and of all testimony taken and the cross-examination thereon. ~~Upon request of a party, either before or after the decision, a State agency which proposes to or does require a condition to be included in the certificate as provided for in Section 58-33-160 shall furnish for the record all factual findings, documents, studies, rules, regulations, standards, or other documentation, supporting the condition.—~~The Commission may provide for the consolidation of the representation of parties having similar interests.

Section 58-33-160. (1) 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 of the construction, operation or maintenance of the major utility facility as the Commission may deem appropriate; such conditions shall be as determined by the applicable State agency having jurisdiction or authority under statutes, rules, regulations or standards promulgated thereunder, and the conditions shall become a part of the certificate. The Commission ~~may not~~must grant a certificate for the construction, operation and maintenance of a major utility facility, either as proposed or as modified by the Commission, ~~unless it shall find and determine~~if it finds and determines that the applicant has shown:

- (a) The basis of the need for the facility.
- (b) The nature of the probable environmental impact.
- (c) That the impact of the facility upon the

environment is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

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(d) That the facilities will serve the interests of system economy and reliability, and in the case of generating facilities, will do so considering reasonably available alternatives and their associated costs, risks, and operating attributes.

(e) That there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations issued thereunder, including any allowable variance provisions therein, except that the Commission may refuse to apply any local law or local regulation if it finds that, as applied to the proposed facility, such law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

(f) That public convenience and necessity require the construction of the facility.

(2) If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon such modification, provided that the municipalities and persons residing therein affected by the modification shall have been given reasonable notice.

(3) A copy of the decision and any ~~opinion order~~ shall be served by the Commission upon each party.

Section 58-33-170. In rendering a decision on an application for a certificate, the Commission shall issue an ~~opinion order~~ stating its reasons for the action taken. If the Commission has found that any regional or local law or regulation, which would be otherwise applicable, is unreasonably restrictive pursuant to paragraph (e) of subsection (1) of Section 58-33-160, it shall state in its ~~opinion order~~ the reasons therefor.

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)~~(1) the construction of a major utility facility constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives; and

~~(b)~~(2) energy efficiency measures; demand-side

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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)~~(B) Available long-term power supply alternatives may include, but are 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)~~(C) The commission shall consider any previous analysis performed pursuant to 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)~~(D) 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) The Public Service Authority may not ~~enter into a contract for the acquisition of~~ acquire a major utility facility 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.

(B)(1) In acting upon any petition by the Public Service Authority pursuant to this section, the Public Service Authority must prove by a preponderance of the evidence that the proposed transaction constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives. The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any

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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 be 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.

(C) 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.

(D) 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.

(E) 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.

(F)(1) 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.

(2) The commission also may require compliance with any provision of Article 3, Chapter 33, Title 58 that the commission determines necessary to grant approval.

Section 58-33-190. (1) The Public Service Authority may not enter into a contract for the purchase of power with a duration longer than ten 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



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Federal Energy Regulatory Commission or any other federal agency. This section does not apply to purchases of renewable power through a commission approved competitive procurement process.

(2) The commission shall consider any previous analysis performed pursuant to 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.

(3) The commission may not grant approval unless it shall find and determine that the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority.

SECTION 23. Section 58-37-40 of the S.C. Code is 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 with one hundred thousand or more customer accounts and the Public Service Authority 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, electric utilities with less than one hundred thousand customer accounts, 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, electric utility with less than one hundred thousand customer accounts, 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

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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. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy-five percent renewable energy or because it purchases wholesale load balancing generation services, then 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 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 commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 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

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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.

(c) The Authority's integrated resource plan must provide the information required in Section 58-37-40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, 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, including Central Electric Power Cooperative, 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 of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal

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by the year 2050.

(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; and

(j) a report addressing updates to the utility's transmission plan under the utility's open-access transmission tariff pursuant to the federal jurisdiction planning process. In this report, the

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utility shall describe if applicable planned transmission improvements may enable specific siting of new resources or provide expected and planned impacts to other resource interconnection constraints or operations of the systems. The utility shall also describe how it evaluated alternate transmission technologies when developing solutions for identified transmission needs for interconnecting resources.

(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 subject to subsection (A)(1) 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 procedural schedule shall include dates for completion of each phase of discovery, including discovery related to the integrated resource plan as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, and rebuttal testimony of the applicant. Except upon showing exceptional circumstances, all discovery shall be served in time to allow its completion, but not less than ten days prior to the hearing. 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 the 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 or the Public Service Authority'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. In reviewing an integrated resource plan, the commission shall give due consideration as to the resources and actions necessary for the utility to fulfill compliance and reliability obligations pursuant to the Federal Energy Regulatory Commission, the North American Electric~~

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Reliability Corporation, the Southeastern Electric Reliability Council, and the Nuclear Regulatory Commission requirements, as well as environmental requirements applicable to resources serving customers in this state. Matters related to the scope and sufficiency of an electrical utility's demand-side plans and activities shall be considered exclusively in proceedings conducted pursuant to Section 58-37-20. In reviewing an integrated resource plan, the commission shall focus its review on the decisions which the applicant must make in the near term based on the triennial integrated resource plan under consideration at the time and shall approve a plan if it finds that the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, including the need for electric capacity and energy required to support economic development and industry retention in the electrical utility's or the Public Service Authority's service territory and to meet applicable planning reserve margins;

(b) consumer affordability and least reasonable cost, considering the resources needed to support economic development and industry retention, and other risks and benefits;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply; ~~and~~

(g) the efficiencies and optimum plans for any electrical utility system spanning state lines located within the electrical utility's or the Public Service Authority's balancing authority area; and

(h) other foreseeable conditions that the commission determines to be for the public's interest.

(3) In modifying or rejecting an electrical utility's or the Public Service Authority's integrated resource plan, the commission shall only require revisions that are reasonably anticipated to materially change resource procurement decisions to be made on the basis of the integrated resource plan under review. If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the 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 the Public Service Authority's revised filing, the Office of

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Regulatory Staff shall review the electrical utility's or the 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. An 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 and the Public Service Authority shall each submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility's or the 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 electrical utility's or the Public Service Authority's annual update and submit a report within ninety days 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 the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest within sixty days from the submittal of the Office of Regulatory Staff's report.

(E) Intervenors shall bear their own costs of participating in proceedings before the commission.

~~(E)~~(F) The commission is authorized to promulgate

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regulations to carry out the provisions of this section.

SECTION 24. Section 58-3-260 of the S.C. Code is amended to read:

Section 58-3-260. (A) For purposes of this section:

(1) “Proceeding” means a contested case, generic proceeding, or other matter to be adjudicated, decided, or arbitrated by the commission.

(2) “Person” means a party to a proceeding pending before the commission, a member of the Office of Regulatory Staff, a representative of a party to a proceeding pending before the commission, individuals, corporations, partnerships, limited liability companies, elected officials of state government, and other public and elected officials.

(3) “Communication” means the transmitting of information by any mode including, but not limited to, oral, written, or electronic.

(4) “Allowable ex parte communication briefing” means any communication that is conducted pursuant to the procedure outlined in subsection (C)(6) of this section.

(5) “Communication of supplemental legal citation” means the submission, subsequent to the submission of post-hearing briefs or proposed orders in a proceeding, of statutes, regulations, judicial or administrative decisions that are enacted, promulgated, or determined after the submission of post-hearing briefs or proposed orders.

(6) “Issue” means a specific request for relief or for other action from the commission in a pending or anticipated matter, legal or regulatory arguments, and policy considerations. “Issue” does not include:

(a) general information concerning the operations, administration, planning, projects, customer service, storms or storm response, accidents, outages, or investments of an entity regulated by the commission that is not confidential and proprietary and is available to the public; or

(b) any confidential information that affects energy security, such as physical or cybersecurity matters, provided that such information is also provided to the Executive Director of the Office of Regulatory Staff.

Any communication pursuant to subitems (a) or (b) that does not contain a specific request for relief or for other action from the commission in a pending matter or anticipated matter and is provided to the commission must be in writing and must be posted on the



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commission's website with any confidential information redacted.

(B)(1) Except as otherwise provided herein or unless required for the disposition of ex parte matters specifically authorized by law, a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication.

(2) Commissioners must limit their consideration of matters before them to the record presented by the parties and may not rely on material not presented in the record by the parties.

(C) The following communications are exempt from the prohibitions of subsection (B) of this section:

(1) a communication concerning compliance with procedural requirements if the procedural matter is not an area of controversy in a proceeding;

(2) statements made by a commission employee who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding, where the statements are limited to providing publicly available information about pending proceedings;

(3) inquiries relating solely to the status of a proceeding, unless the inquiry: (a) states or implies a view as to the merits or outcome of the proceeding; (b) states or implies a preference for a particular party or which states why timing is important to a particular party; (c) indicates a view as to the date by which a proceeding should be resolved; or (d) is otherwise intended to address the merits or outcome or to influence the timing of a proceeding;

(4) a communication made by or to commission employees that concerns judicial review of a matter that has been decided by the commission and is no longer within the commission's jurisdiction; however, if the matter is remanded to the commission for further action, the provisions of this section shall apply during the period of the remand;

(5) where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the

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merits are authorized provided:

(a) the commissioner, hearing officer, or commission employee reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(b) the commissioner, hearing officer, or commission employee makes provision promptly to notify all other parties of the substance of the ex parte communication and, where possible, allows an opportunity to respond;

(6)(a) subject to the provisions of Chapter 4 of Title 30, communications, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding for the purposes of an allowable ex parte communication briefing if:

~~(i) the Executive Director of the Office of Regulatory Staff or his designee attends the briefing and files a written certification, within seventy two hours of the briefing, attaching copies of all statements and all other matters filed by all persons pursuant to subsubitems (ii), (iii), and (iv) of this subsection, with the chief clerk of the commission that such briefing was conducted in compliance with the provisions of this section and that each party, person, commissioner, or commission employee present has complied with the reporting and certification requirements of subsubitems (ii), (iii), and (iv); and within twenty four hours of the submission by the executive director, the commission posts on its web site the written certification, statements, and other matters filed by the executive director;~~

~~(ii) each party, person, commissioner, and commission employee present files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing accurately summarizing the discussions in full and attaching copies of any written materials utilized, referenced, or distributed;~~

~~(iii) each party, person, commissioner, and commission employee present, within forty eight hours of the briefing, files a certification with the Executive Director of the Office of Regulatory Staff that~~

~~(i) in the course of such briefing, no commissioner or commission employee shall make any commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any~~

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proceeding, ~~was requested by any person or party nor shall any person request~~ any commitment, predetermination, or prediction ~~wasto be~~ given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue;

(ii) the Executive Director of the Office of Regulatory Staff or his designee must attend the briefing and certify that the commissioners and commission employees complied with the provisions in subitem (i);

~~(iv)~~(iii) each commissioner or commission employee present at the allowable ex parte communication briefing grants to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection (C)(6) of this section and files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing stating that the commissioner or commission employee will comply with this provision;

~~(v)~~(iv) the commission ~~posts must post~~ on its web site, at least five business days prior to the proposed briefing, a notice of each request for an allowable ex parte communication briefing that includes the date and time of the proposed briefing, the name of the person or party who requested the briefing, the name of each commissioner and commission employee whom the person or party has requested to brief, and the subject matter to be discussed at the briefing;

(v) the commission must post on its web site within three business days after the briefing, all nonconfidential materials and documents provided to the commission as part of the ex parte briefing and a statement signed by the chief clerk of the commission that the provisions of this subsection have been followed, including the justification for actions taken to preserve the confidentiality of any confidential information provided to the commission;

(vi) the person or party initially seeking the briefing ~~requestsmust request~~ the briefing with sufficient notice, as required in subsubitem ~~(v)~~(iv), to allow the initial briefing to be held at least twenty business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be

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expected to become an issue, and the initial briefing must be held at least twenty business days prior to the hearing in the proceeding; and

(vii) any person or party desiring to have a briefing on the same or similar matter as provided for in subsubitem (vi) shall be entitled to request ~~requests~~ a briefing so long as the request is made with sufficient time for notice, as required in subsubitem ~~(v)~~(iv), to allow the briefing to be held at least ten business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and any such briefing must be held at least ten business days prior to the hearing in the proceeding;

~~(b) any person or party may object to the attendance of the Executive Director of the Office of Regulatory Staff at an allowable ex parte communication briefing on the grounds of bias or a conflict of interest on the part of the executive director. Any such objection must be made in writing and must be filed with the executive director no later than twenty four hours prior to the scheduled briefing. If the objecting person or party and the executive director agree upon a neutral person, that person shall serve in the executive director's stead and shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings. If the objecting person or party and the executive director cannot agree upon a neutral person, the objecting person or party shall petition the Administrative Law Court for the appointment of a neutral person to serve in the executive director's stead, and the petition shall be given priority over all other matters within the jurisdiction of the Administrative Law Court. In the petition, the objecting party shall set forth the specific grounds supporting the objecting person's or party's allegation of bias or conflict on the part of the executive director and shall generally describe the matters to be discussed at the briefing. It shall not be sufficient grounds that the executive director is or is likely to be a party to a proceeding. The executive director shall be given an opportunity to respond. Part of the executive director's response shall include recommendations as to the experience required of the person to act in his stead. Upon a showing of actual bias or conflict of interest, the administrative law judge shall designate a person to act in the executive director's stead and that person shall comply with the reporting and certification requirements of the executive director contained in~~

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~~subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). Such person must have the expertise to act in the executive director's stead. The decision of the administrative law judge shall be considered interlocutory and not immediately appealable and may be appealed with the final order of the commission. The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings;~~

~~\_\_\_\_\_ (c) should the Executive Director of the Office of Regulatory Staff desire to conduct an allowable ex parte communication briefing, the chief clerk of the commission shall appoint a neutral person who shall serve in the executive director's stead and that person shall comply with the reporting and certification requirements of the Executive Director of the Office of Regulatory Staff contained in subsubitem (i). The Executive Director of the Office of Regulatory Staff shall comply with the requirements contained in subsubitems (ii) and (iii);~~

~~\_\_\_\_\_ (d)(b) nothing in subsection (C)(6) of this section requires any commissioner or commission employee to grant a request for an allowable ex parte communication briefing, except as provided in subsection (C)(6)(a)(iv)(iii) of this section;~~

(7) a communication of supplemental legal citation if the party files copies of such documents, without comment or argument, with the chief clerk of the commission and simultaneously provides copies to all parties of record;

(8) subject to the provisions of Chapter 4 of Title 30, communications between and among commissioners regarding matters pending before the commission; provided, further, that any commissioner, hearing officer, or commission employee may receive aid from commission employees if the commission employees providing aid do not:

(a) receive ex parte communications of a type that the commissioner, hearing officer, or commission employee would be prohibited from receiving; or

(b) furnish, augment, diminish, or modify the evidence in the record.

(D) If before serving in a proceeding, a commissioner, hearing officer, or commission employee receives an ex parte communication of a type that may not properly be received while serving, the commissioner, hearing officer, or commission employee must disclose the communication in the following manner: a

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commissioner, hearing officer, or a commission employee who receives an ex parte communication in violation of this section must promptly after receipt of the communication or, in the case of a communication prior to a filing, as soon as it is known to relate to a filing, place on the record of the matter all written and electronic communications received, all written and electronic responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner, hearing officer, or commission employee, as appropriate, received an ex parte communication and must advise all parties that these matters have been placed on the record. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. Parties affected by a violation may agree to a resolution of any claim regarding such violation, including the waiver of a hearing and the waiver of the obligation to report violations under subsection (I) of this section.

(E) Any person who makes an inadvertent ex parte communication must, as soon as it is known to relate to an issue in a proceeding, disclose the communication by placing on the record of the matter the communication made, if written or electronic, or a memorandum stating the substance of an inadvertent oral communication, and the identity of each person to whom the inadvertent ex parte communication was made or given. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. If no party rebuts the inadvertence of the ex parte communication within ten days after notice of the ex parte communication, the ex parte communication shall be presumed inadvertent. Parties affected by a violation may agree to a resolution of any claim regarding such violation, and the provisions of subsection (J) of this section shall not apply.

(F) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a commissioner, hearing officer, or commission employee who receives the communication may be disqualified by the commission, and the portions of the record pertaining to the communication may be sealed by protective order.

(G) Nothing in this section alters or amends Section 1-23-320(i).

(H) Nothing in this section prevents a commissioner,

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hearing officer, or commission employee from:

                    (1) attending educational seminars sponsored by state, regional, or national organizations and seminars not affiliated with any utility regulated by the commission; however, the provisions of this section shall apply to any communications that take place outside any formal sessions of any seminars or group presentations; or

                    (2) conducting a site visit of a utility facility under construction or attending educational tours of utility plants or other facilities provided:

                    (a) the Executive Director of the Office of Regulatory Staff or his designee also attends the site visit or educational tour;

                    (b) a summary of the discussion is produced and posted on the commission's website, along with copies of any written materials utilized, referenced, or distributed; and

                    (c) each party, person, commission, and commission employee who participated in the site visit or educational tour, within forty-eight hours of the site visit or educational tour, files a certification with the Executive Director of the Office of Regulatory Staff that no commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party, nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue.

(I) Subject to any privilege under Rule 501 of the South Carolina Rules of Evidence, any commissioner, hearing officer, commission employee, party, or any other person must report any wilful violation of this section on the part of a commissioner, hearing officer, or commission employee to the review committee.

(J) Any commissioner, hearing officer, commission employee, or person who wilfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars or imprisoned for not more than six months. If a commissioner wilfully communicates with any party or person or if any person or party wilfully communicates with a commissioner regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten business days prior to the scheduled hearing on the merits, during the

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hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the commissioner shall be removed from office. If a hearing officer or commission employee wilfully communicates with any party or person or any party or person wilfully communicates with a hearing officer or commission employee regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the hearing officer or commission employee shall be terminated from employment by the commission. For purposes of this section: (1) "wilful" means an act done voluntarily and intentionally with the specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or disregard the law, and (2) a violation of the provisions of this section must be proved by clear and convincing evidence before a commissioner, hearing officer, or commission employee can be removed from office or terminated from employment.

SECTION 25. Section 58-3-270(E) of the S.C. Code is amended to read:

(E) The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court may issue an order tolling any deadlines imposed by any state statute for a decision by the commission on the proceeding that is the subject of the ex parte communication complaint but only to the extent that the allegations of the complaint are verified and if found to be true would indicate that the proceeding was prejudiced to the extent that the commission is unable to consider the matter in the proceeding impartially. The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court must conduct a hearing and must issue a decision within sixty days after the complaint is filed.

SECTION 26. The General Assembly hereby finds and declares that:

(1) the economic and financial well-being of South Carolina and its citizens depends upon continued economic development and industry retention and opportunities for job attraction and retention; and

(2) the cost of electricity and the

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availability of clean energy sources for electricity are important factors in the decision for a commercial and industrial entity to locate, expand, or maintain their existing establishments in South Carolina; and

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

(4) electrical utilities are critical economic development and industry retention partners for South Carolina by offering affordable power that has helped to attract jobs and associated development.

Title 58 of the S.C. Code is amended by adding:

CHAPTER 43

Economic Development Rates

Section 58-43-10. Unless otherwise specified, for purposes of this chapter:

(1) "Commission" means the Public Service Commission.

(2) "Contract" has the same meaning as the term is used in Section 58-27-980.

(3) "Electrical utility" has the same meaning as provided in Section 58-27-10(7).

(4) "Marginal cost" means the electrical utility's marginal cost for producing energy.

(5) "Qualifying customer" means either:

(a) an existing commercial or industrial customer with a combined firm and interruptible contract demand greater than 20 megawatts that agrees to a new or extended electric service contract with a term of five years of more; or

(b) a commercial or industrial customer that agrees to locate its operations in South Carolina or expands its existing establishment, and such location or expansion results in the minimum of:

(i) 500 kilowatts at one point of delivery;

(ii) fifty new employees; and

(iii) capital investment for \$400,000 following the electrical utility's approval for service.

(6) "Rate proposal" means a written document that identifies the rates, terms, and conditions for electric service offered by an electrical utility to a prospective customer.

(7) "Renewable energy facility" means a solar array or other facility

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constructed by or on behalf of a qualifying customer for the exclusive purpose of supplementing electrical power generation from a renewable energy source for its economic development location, expansion, or retention.

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

- (a) 50 megawatts at one point of delivery;
- (b) 500 new employees;
- (c) capital investment of \$100,000,000 following the electrical utility’s approval for service; and
- (d) who is designated by the South Carolina Department of Commerce as a business which will bring substantial benefit to the economy of South Carolina and its citizens, such that it is in the public interest to have such transformational customer located in this State.

Section 58-43-20. (A) When considering whether the rates, terms, and conditions negotiated with economic development prospects are just and reasonable, the commission shall give full weight and consideration to the economic development benefits to the electrical utility’s customers that result from prospective commercial or industrial entities locating or expanding their activities in South Carolina.

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

(C) An electrical utility may offer special rates, terms, and conditions to a qualifying customer or transformational customer, including rates that are lower than the rates that the customer otherwise would be charged. The agreement with the customer must be for a term not exceeding ten years and the electrical utility may offer the customer interruptible and real-time pricing options and riders for other clean energy attributes which may support the qualifying customer’s or transformational customer’s needs. However, rates for qualifying customers may not be lower than the electrical utility’s marginal cost of providing service to the customer and rates for transformational

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customers may not be lower than twenty-five percent less than the electrical utility's marginal cost of providing service to the customer.

(D) Rates, terms, and conditions negotiated with qualifying and transformational customers shall be deemed just and reasonable if:

- (1) for qualifying customers, the terms of this section are met;
- (2) for transformational customers, the commission determines

that:

(a) the economic development rate offered significantly impacts the customer's decision to locate or expand in South Carolina;

(b) the financial value realized by the electrical utility's system from the transformational customer being on the electrical utility's system for ten years is greater than or equal to the financial value of the rate incentive given to the transformational customer;

(c) measures have been taken to avoid or reduce cross-customer class subsidization; and

(d) the consequences of offering the economic development rate are beneficial to the system as a whole considering all customer classes.

The commission must either approve or deny an application pursuant to this section within sixty days.

(E) Nothing in this chapter shall otherwise restrict the commission's authority to regulate rates and charges or review contracts entered into pursuant to this section or to otherwise supervise the operations of electrical utilities.

(F) The construction of a proposed renewable energy facility by or on behalf of a qualifying customer to support electric power generation at its location must comply with federal, state, and local laws and ordinances.

(G) Consistent with federal, state, and local laws and ordinances, the electrical utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying or transformational customer to support electrical power generation at its location where high-quality and reliable electric service are not adversely impacted.

(H) In the event a qualifying customer or transformational customer leaves this State or terminates its operations in this State during the ten-year contract period, such customer must reimburse the electrical utility and its customers the difference between standard rates and the rates paid during the term of the agreement between the electrical utility and its customers.

(I) For facilities designated as high priority sites by the South

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Carolina Department of Commerce, an electrical utility may enter into agreements to provide energy infrastructure to such sites if the South Carolina Department of Commerce determines it will increase the probability of attracting transformational customers to this State. Costs of such infrastructure shall be accounted for and recorded as an element of rate base for inclusion in general rates by the electrical utility provided the commission finds such costs are reasonable and prudent and shall not include a rate of return until the facilities are placed into service for a customer.

(J) An electrical utility shall not be required to adjust its cost of service in a rate proceeding as a result of a rate, agreement, or infrastructure provided pursuant to this section in any matter that would impute revenue at a level higher than received by the electrical utility from a qualifying customer or transformational customer or would otherwise reduce the electrical utility's revenue as a result of entering into contracts with qualifying customers or transformational customers pursuant to this section.

(K) If an electrical utility offers special rates, terms, and conditions to a qualifying customer or a transformational customer, any electrical utility in South Carolina may also offer all directly competing existing customers in its service territory in this State with similar special rates, terms, and conditions at the time the agreement is entered into with the qualifying customer or transformational customer to the extent the directly competing existing customer is able to substantiate its status as a directly competing existing customer. For purposes of this section, customers are "directly competing" if they make the same end-product, or offer the same service, for the same general group of customers. Customers that only produce component parts of the same end-product are not directly competing customers.

SECTION 27. Sections 58-33-310 and 58-33-320 of the S.C. Code are amended to read:

Section 58-33-310. Any party may appeal, in accordance with Section 1-23-380, from all or any portion of any final order or decision of the commission, including conditions of the certificate required by a state agency under Section 58-33-160 as provided by Section 58-27-2310. ~~Any appeals may be called up for trial out of their order by either party.~~ Any final order on the merits issued pursuant to this chapter shall be immediately appealable to the Supreme Court of South Carolina, without petition for rehearing or reconsideration. The Supreme Court shall provide for expedited briefing and hearing of the appeal in preference to all other nonemergency

matters. The commission must not be a party to an appeal.

Section 58-33-320. Except as expressly set forth in Section 58-33-310, no court of this State shall have jurisdiction to hear or determine any issue, case, or controversy concerning any matter which was or could have been determined in a proceeding before the commission under this chapter or to stop or delay the construction, operation, or maintenance of a major utility facility, except to enforce compliance with this chapter or the provisions of a certificate issued hereunder, and any such action shall be brought only by the Office of Regulatory Staff. Provided, however, that subject to Section 58-33-175, nothing herein contained shall be construed to abrogate or suspend the right of any individual or corporation not a party to maintain any action which he might otherwise have been entitled.

SECTION 28. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-160. (A)(1) The Office of Regulatory Staff must conduct a study to evaluate the potential costs and benefits of the various administrator models for energy efficiency programs and other demand-side management programs funded by, or potentially funded by, electrical utilities in this State. This study must be conducted on each electrical utility in this State. For purposes of this section, administrator models for energy efficiency programs shall include the following models: utility administrator, state or government agency administrator, an independent third-party administrator, and a hybrid administrator.

(2) For purposes of this section only, “electrical utility” means an investor-owned electrical utility that serves more than 100,000 customers in this State.

(B) This study must consider which administrator model would most meaningfully improve programs offered by the electrical utility.

(C) The study must also evaluate which administrator model offers the best opportunities to increase cost and energy savings, improve the quality of services rendered, reduce ratepayer costs, or more effectively serve low-income customers, within a program portfolio that is cost effective overall, as compared to similar program administration by individual electrical utilities, or to increase the cost effectiveness of energy efficiency program portfolios. This study must consider, but is not limited to, the following:

(1) whether third-party administration subject to a pay for performance contract and independent third-party evaluation, measurement, and verification could reduce administrative costs, as compared to separate administration of energy efficiency programs by

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individual electrical utilities;

(2) whether a system benefit charge or other funding or financing mechanism would more efficiently, effectively, and fairly fund energy efficiency and other demand side management programs through an administrator;

(3) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced lower historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(4) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced high historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(5) the legal and practical implications of implementing the various administrator models for an electrical utility with a multistate balancing authority area;

(6) which administrator model could most enhance an electrical utility's delivery of nonenergy benefits, such as resiliency, reliability, health, economic development, industry retention, energy security, and pollution reduction; and

(7) which administrator model could most effectively pursue nonratepayer funding including, but not limited to, federal, state, or local governmental support, as a means of either reducing reliance of ratepayer funds or increasing the scope, reach, or effectiveness of energy efficiency and demand side management programs.

(D) This study must be conducted with public input from stakeholders through written comments and at least one public forum.

(E) The Office of Regulatory Staff is authorized to retain the services of an expert or consultant with expertise and experience in the successful implementation of energy efficiency administrator programs. The Office of Regulatory Staff is exempt from the procurement code for the purposes of retaining services for this study.

(F) The provisions of this section are subject to funding. However, the Office of Regulatory Staff must initiate the study within one year from receipt of necessary funding and complete its report within six months. Upon completion of this study, the Office of Regulatory Staff must provide its report to the General Assembly and the commission. This report may include a recommendation as to which administrator model should be established for each electrical utility, draft legislation, and requirements that should be established.

SECTION 29. Section 58-37-10 of the S.C. Code is amended to read:

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

(1) “Demand-side activity” or “demand-side management program” 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, through measures, 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 requirements pursuant to Section 58-37-40 and any process adopted by the commission. For electric cooperatives subject to the regulations of the Rural ~~Electrification Administration~~ Utilities Service, this definition must be interpreted in a manner consistent with any integrated resource planning process prescribed by Rural ~~Electrification Administration~~ Utilities Service regulations.

(3) “Cost-effective” means that the net present value of benefits of a program or portfolio exceeds the net present value of the costs of the program or portfolio. A cost-effective program or portfolio must pass any two of the following tests:

- (a) utility cost test;
- (b) total resource cost test;
- (c) participant cost test; or
- (d) ratepayer impact measure test.

In evaluating the cost-effectiveness of a program or portfolio, a utility or program administrator must present the results of all four tests. In calculating cost-effectiveness, a utility must use a standard utility practice for determining the percentage of energy savings that would or would not have been achieved through customer adoption of an

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efficiency behavior or technology without any incentive allowed pursuant to this chapter to install and utilize the technology as part of the associated demand-side management program. The utility must designate the expected useful life of the measure and evaluate the costs and benefits of the measures over their useful lives in the program application based on industry-accepted standards. Further, in calculating the cost-effectiveness, the commission must consider the efficiencies and scale of programs that are or may be available across a utility's balancing area, even if that balancing area extends outside of the state.

(4) "Demand-side management pilot program" means a demand-side management program that is of limited scope, cost, and duration and that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

SECTION 30. Section 58-37-20 of the S.C. Code is amended to read:

Section 58-37-20. (A) The General Assembly declares that expanding utility investment in and customer access to cost-effective demand-side management programs will result in more efficient use of existing resources, promote lower energy costs, mitigate the increasing need for new generation and associated resources, and assist customers in managing their electricity usage to better control their electric bill, and is therefore in the public interest.

(B) The commission may approve any program filed by a public utility if the program is found to be cost-effective. Furthermore, the commission may, in its discretion, approve any program filed by a public utility that is not cost-effective, so long as the proposed demand-side management program is targeted to low-income customers, provided that the public utility's portfolio of demand-side management programs is cost-effective as a whole.

(C) The South Carolina Public Service Commission ~~may~~ must adopt procedures that ~~encourage~~ require electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to plan for and invest in all reasonable, prudent, and available energy efficiency and demand-side resources that are cost-effective energy efficient technologies and energy conservation programs in an amount to be determined by the commission. If an electrical utility fails to meet the requirements of this section as determined by the commission, the commission is authorized to appoint a third-party administrator to carry out the residential low-income energy efficiency duties pursuant to this section on behalf of the electrical utility if the commission determines that having such a third-party administrator is in the public interest and consistent with law. Upon



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notice and hearings that the commission may require, the commission may issue rules, regulations, or orders pursuant to this chapter to implement applicable programs and measures under this section. 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 system or local coincident peak 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.~~

(D) Each investor-owned electrical utility must submit an annual report to the commission describing the demand-side management programs implemented by the electrical utility in the previous year, provided the program has been operational for a reasonable period of time, as well as the results of such programs. The commission may require certain information including, but not limited to:

(1) achieved savings levels from the utility’s portfolio of programs in the prior year, reported as a percentage of the utility’s annual sales;

(2) program expenditures, including incentive payments;

(3) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(4) avoided costs and the techniques used to estimate those costs;

(5) estimated cost-effectiveness of the demand-side management programs;

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(6) a description of economic benefits of the demand-side management programs;

(7) the number of customers eligible to opt-out of the electrical utility's demand-side management programs, the percentage of those customers that opted-out in the previous year, and the annual sales associated with those opt-out customers; and

(8) any other information required by the commission.

(E) To ensure prudent investments by an electrical utility in energy efficiency and demand response, as compared to potential investments in generation, transmission, distribution, and other supply related utility equipment and resources, the commission must review each investor-owned electrical utility's portfolio of demand-side management programs on at least a triennial basis to align the review of that utility's integrated resource plan pursuant to Section 58-37-40. The commission is authorized to order modifications to an electrical utility's demand-side management portfolio, including program budgets, if the commission determines that doing so in the public interest.

(F) The provisions of subsections (C), (D), and (E) do not apply to an electrical utility that serves less than 100,000 customers in this State.

SECTION 31. Section 58-37-30 of the S.C. Code is amended to read:

Section 58-37-30. (A) The South Carolina Public Service Commission must report annually to the General Assembly on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities, as defined in the Public Utilities Regulatory Policies Act of 1978, by electrical utilities and public utilities providing gas services subject to the jurisdiction of the Public Service Commission.

(B) Electric cooperatives providing resale or retail services, municipally-owned electric utilities, and the South Carolina Public Service Authority shall report annually to the State Energy Office on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities. For electric cooperatives, submission to the State Energy Office of a report on demand-side ~~activities~~management programs in a format complying with then current Rural ~~Electrification Administration~~Utilities Service regulations constitutes compliance with this subsection. An electric cooperative providing resale services may submit a report in conjunction with and on behalf of any electric cooperative which purchases electric power and energy from it. The

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State Energy Office must compile and submit this information annually to the General Assembly.

(C) The State Energy Office may provide forms for the reports required by this section to the Public Service Commission and to electric cooperatives, municipally-owned electric utilities, and the South Carolina Public Service Authority. The office shall strive to minimize differing formats for reports, taking into account the reporting requirements of other state and federal agencies. For electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission, the reporting form must be in a format acceptable to the commission.

SECTION 32. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-35. (A) An electrical utility may propose programs and customer incentives to encourage or promote demand-side management programs whereby a customer uses a customer-sited distributed energy resource, as defined in Section 58-39-120(C), or combination of such resources, to: (1) reduce the customer's electric consumption or demand from the electric grid, or (2) beneficially shape the customer's electric consumption or demand in a manner that reduces the customer's contribution to the electrical utility's system or local coincidental peak demand, subject to the associated load to utility management for reliability or economic purposes, or reduce future electrical utility system costs to serve its customers. Programs authorized pursuant to this section may also include distributed energy resources that draw additional power from the electric grid including, but not limited to, electric heat pumps with programmable or utility controlled thermostats, electric heat pump water heaters controlled through utility programs, smart home panels, advanced inverters, and energy storage devices located on the customer's side of the meter, provided that any programs or customer incentives otherwise meet the requirements of this section. These programs may also include a combination of resources, including renewable energy microgrids, to provide economic benefits to the utility system or to help address specific transmission or distribution issues that would otherwise require significant capital investment.

(B) In evaluating a program or customer incentive proposed pursuant to this section to assure reasonableness, promotion of the public interest, and consistency with the objectives of Sections 58-27-845 and 58-37-20, the commission must apply the procedure approved pursuant to Section 58-37-20. An electrical utility must use standard utility practices for determining the percentage of customers that would or

would not have adopted a distributed energy resource without any incentive allowed under this section to install and utilize the distributed energy resource as part of the associated demand-side management program. The electrical utility must designate the expected useful life of the distributed energy resource and evaluate the costs and benefits of demand-side measures over their useful lives in the program application based on industry-accepted standards. All initial program costs, benefits, and participation assumptions used in the electrical utility's cost-effectiveness evaluations must be reviewed by the commission to assure the electrical utility has presented a reasonable basis for its calculation. Electrical utilities must update the cost-effectiveness analysis based on the actual program costs, benefits, and participation as soon as practicably possible based on standard evaluation, measurement, and verification protocols, and the electrical utility's cost recovery must be reconciled accordingly.

(C) For demand-side programs or customer incentives proposed in this section, the electrical utility may recover costs through the procedures in Section 58-37-20. The prohibition in Section 58-40-20(I) against recovery of lost revenues associated with distributed energy resources pursuant to Chapter 39, Title 58 is inapplicable to recovery of net lost revenues associated with a distributed energy resource that is installed as a result of a demand-side program incentive pursuant to this section or Section 58-37-20.

(D) The commission may approve any program filed pursuant to this section if the commission finds the program to be cost effective pursuant to Section 58-37-10(3). For any demand-side programs or customer incentives submitted under this section with projected annual customer incentive amounts less than five million dollars per year for each of the first two program years, the commission must issue an order as expeditiously as practicable on the written submissions of the electrical utility but may require an evidentiary hearing where novel or complex issues of fact require special review by the commission. Nothing in this section prevents the commission from ordering an electrical utility to modify or terminate a program approved pursuant to this section based on the results of standard evaluation, measurement, and verification protocols.

(E) The Energy Office must develop and publish materials intended to inform and educate the public regarding programs available to a customer pursuant to this section. The Energy Office must maintain a list of approved vendors who are qualified and in good standing to provide services associated with these programs.

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SECTION 33. Section 58-37-50 of the S.C. Code is amended to read:

Section 58-37-50. (A) As used in this section:

(1) "Electricity provider" means an electric cooperative, an investor-owned electric utility, the South Carolina Public Service Authority, or a municipality or municipal board or commission of public works that owns and operates an electric utility system.

(2) "Natural gas provider" means an investor-owned natural gas utility or publicly owned natural gas provider.

(3) "Meter conservation charge" means the charge placed on a customer's account by which electricity providers and natural gas providers recover the costs, including financing costs, of energy efficiency and conservation measures.

(4) "Notice of meter conservation charge" means the written notice by which subsequent purchasers or tenants will be given notice that they will be required to pay a meter conservation charge.

(5) "Customer" means a homeowner or tenant receiving electricity or natural gas as a retail customer.

(6) "Community action agency" means a nonprofit eleemosynary corporation created pursuant to Chapter 45, Title 43 providing, among other things, weatherization services to a homeowner or tenant.

(B) Electricity providers and natural gas providers may enter into written agreements with customers and landlords of customers for the financing of the purchase price and installation costs of energy efficiency and conservation measures. These agreements may provide that the costs must be recovered by a meter conservation charge on the customer's electricity or natural gas account, provided that the electricity providers and natural gas providers comply with the provisions of this section. A failure to pay the meter conservation charge may be treated by the electricity provider or natural gas provider as a failure to pay the electricity or natural gas account, and the electricity provider or natural gas provider may disconnect electricity or natural gas service for nonpayment of the meter conservation charge, provided the electricity provider or natural gas provider complies with the provisions of Article 25, Chapter 31, Title 5; Article 17, Chapter 11, Title 6; Article 17, Chapter 49, Title 33; Article 11, Chapter 5, Title 58; Article 21, Chapter 27, Title 58; Article 5, Chapter 31, Title 58; and any applicable rules, regulations, or ordinances relating to disconnections.

(C) Any agreement permitted by subsection (B) must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be

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a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one-year treasury bills as published by the Federal Reserve ~~at the time the agreement is entered~~ on the first business day of the calendar year in which the agreement is entered. An electrical utility entering into such an agreement whose rates are regulated by the commission must fix the interest rate over the term of the agreement to not exceed such utility's weighted average cost of equity and long-term debt as most recently approved by the commission at the time the agreement is entered. Any indebtedness created under the provisions of this section may be paid in full at any time before it is due without penalty.

(D) An electricity provider or natural gas provider may recover the costs, including financing costs, of these measures from its members or customers directly benefiting from the installation of the energy efficiency and conservation measures. Recovery may be through a meter conservation charge to the account of the member or customer and any such charge must be shown by a separate line item on the account. A utility entering into such agreement whose rates are regulated by the commission shall recover all reasonable and prudent incremental costs incurred to implement agreements for financing and installing energy-efficiency and conservation measures in base rates. Incremental costs may include, but are not limited to, billing system upgrades, overhead, incremental labor, and all other expenses properly considered to be associated with ensuring the ongoing premise bill savings are realized from offering during the terms of such agreements.

(E) An electricity provider or natural gas provider shall assume no liability for the installation, operation, or maintenance of energy efficiency and conservation measures when the measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of the measures, and no action may be maintained against the electricity provider or natural gas provider relating to the failure of the measures. An electricity provider or natural gas provider shall assume no liability for energy audits performed by third parties and shall provide no warranty relating to any energy audit done by any third party. Nothing in this section may be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy efficiency and conservation measures.

(F) Before entering into an agreement contemplated by this section, the electricity provider or natural gas provider shall cause

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to be performed an energy audit on the residence considered for the energy efficiency measures. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated. An agreement entered following completion of an energy audit shall specify the measures to be completed and the contractor responsible for completion of the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work. Upon completion of the work, it must be inspected by an energy auditor certified by the Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be held in escrow by the electricity provider or natural gas provider.

(G) An electricity provider or natural gas provider that enters into an agreement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electricity provider or natural gas provider gives record notice that the residence is subject to the agreement. Notice must be given, at the expense of the filer, by filing a notice of meter conservation charge with the appropriate office for the county in which the residence is located, pursuant to Section 30-5-10. The notice of meter conservation charge does not constitute a lien on the property but is intended to give a purchaser of the residence notice that the residence is subject to a meter conservation charge. Notice is deemed to have been given if a search of the property records of the county discloses the existence of the charge and informs a prospective purchaser: (1) how to ascertain the amount of the charge and the length of time it is expected to remain in effect, and (2) of his obligation to notify a tenant if the purchaser leases the property as provided in subsection (H)(3).

(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice

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of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in item (3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section 27-40-240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one-half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Title 37 of the South Carolina Code of Laws.

(J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing functions under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).

(K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied ~~at before~~ the time the measures are taken. ~~The procedures allowed by this section may not be used with respect to a new residence or a residence under construction.~~ The provisions of this section may not be used to



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implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment, or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment, unless (1) the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider, or (2) an electric appliance used for home heating is being replaced by an appliance that operates primarily on electricity but which has the capability of also operating on a secondary fuel source.

(L) Electricity providers or natural gas providers may offer their customers other types of financing agreements available by law, instead of the option established in this section, for the types of energy efficiency or conservation measures described in this section.

(M)(1) An electricity provider or natural gas provider must not obtain funding from the following federal programs to provide loans provided by this section:

(a) 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;

(b) 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.

(2) Nothing in this section changes the exclusive administration of these programs by local community action agencies through the South Carolina Governor's Office of Economic Opportunity pursuant to its authority pursuant to the provisions of Chapter 45, Title

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43, the Community Economic Opportunity Act of 1983.

(3) Nothing in this subsection prevents a customer or member of an electricity provider or natural gas provider from obtaining services under the Low Income Home Energy Assistance Program or the Weatherization Assistance Program.

SECTION 34. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-215. (A) The Public Service Authority, in consultation with the South Carolina Department of Commerce, shall have the authority to serve as an anchor subscriber of incremental natural gas and pipeline capacity needed in the future by the State to recruit new transformational projects or to assist in the expansion of transformational projects as identified by the South Carolina Department of Commerce.

(B) The Public Service Authority is authorized to act on behalf of the State, to aid natural gas pipeline construction companies and natural gas shippers in obtaining approval for incremental capacity and delivery to this State to support economic growth. The Public Service Authority is authorized to demonstrate market support in required filings including, but not limited to, binding precedent agreements, and to make other attestations in furtherance of satisfaction of the application requirements of federal law and regulations. This subsection is subject to available funding.

(C) There is hereby established the “Energy Investment and Economic Development Fund” to be held in an operating account by the Public Service Authority to further the provisions of this section and other energy investment needs. Subject to the approval of the Joint Bond Review Committee, the Energy Investment and Economic Development Fund may be funded by the amount required to be paid to the State pursuant to Section 58-31-110 less the annual costs billed by the Office of Regulatory Staff and the South Carolina Public Service Commission. The South Carolina Department of Commerce shall report, at least once annually and no later than September first, to the Joint Bond Review Committee as to the level and need for funding to advance the provisions of this section. Unless sufficient funding is allocated to the Energy Investment and Economic Development Fund and such action is approved by the Joint Bond Review Committee, the Public Service Authority shall not execute a binding precedent agreement on behalf of the State pursuant to this section. In no event shall the costs associated with serving as an anchor affect the rates and charges for electric or water service for the Public Service Authority’s customers.

(D) The South Carolina Department of Commerce, with input from

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the Public Service Authority, is authorized to resell natural gas pipeline capacity rights procured pursuant to this section subject to a plan approved by the Joint Bond Review Committee. The proceeds of any sales of natural gas pipeline capacity rights must be deposited in the general fund of the State.

(E) When the Public Service Authority enters into a binding agreement on behalf of the State, the Office of Regulatory Staff, in representing the public interest and in collaboration with the Department of Commerce, is directed to make such filings supporting required federal regulatory approvals.

(F) The provisions of this section do not alter, amend, expand, or reduce, any other authority granted to the Public Service Authority in this chapter to enter into any agreements necessary for the provision of electric service.

SECTION 35.A. Section 58-3-70 of the S.C. Code is amended to read:

~~Section 58-3-70. The chairman and members of the commission shall receive annual salaries payable in the same manner as the salaries of other state officers are paid. The commission members shall receive a salary in an amount equal to ninety-seven and one-half percent of the salary fixed for Associate Justices of the Supreme Court.~~

Each commissioner must devote full time to his duties as a commissioner and must not engage in any other employment, business, profession, or vocation during the normal business hours of the commission.

B. This section is effective beginning with the fiscal year immediately following the Public Service Commission election for the reconstituted three-member commission.

SECTION 36. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-50. (A) The General Assembly encourages electrical utilities to explore cost effective, efficient bulk power solutions, particularly during periods of constrained capacity, for non-residential customers with electric loads in excess of 25 megawatts.

(B)(1) An electrical utility may file a proposed agreement regarding co-located resources between the utility and a customer with an electric load in excess of 25 megawatts for the commission's consideration. The proposed agreement must contain at least one of the following requirements:

(a) co-location of electric generation or storage on the customer's property provides bulk system benefits for all customers and benefits for the host customer;

(b) co-location of renewable electric generation resources on

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the customer's property provides bulk system benefits for all customers and the renewable attributes associated with such generation can be allocated to the host customer;

(c) co-location of electric generation on the customer's property would result in permitting and siting efficiencies to enable electric generation to come online earlier than otherwise could occur; or

(d) co-location of electric generation resources on the customer's property could be utilized as resiliency resources to serve the electric grid in times of need.

(2) In the filing with the commission, the electrical utility must include a description of:

(a) how the resource helps to serve resource needs identified in the electrical utility's most recent integrated resource plan filing;

(b) credit and ratepayer protections included in the agreement;

(c) the contractual terms that preserves the electrical utility's operation of resources; and

(d) how costs and benefits associated with the agreement would be allocated among the customer who is a party to the agreement and other customers in the electrical utility's balancing area.

(C) The commission must give a proposed agreement filed pursuant to this section expedited consideration. The commission may approve the proposed agreement if the commission finds:

(1) the proposed program was voluntarily agreed upon by the electrical utility and the customer,

(2) the filing meets the requirements of this section; and

(3) the proposed agreement is in the public interest.

(D) For purposes of this section, "co-located" or "co-location" includes electric generation and associated facilities on a customer's site as well as any location where the connection to the electrical utility is in such proximity to the customer's site that enables resilient power supply to support the development of power supply to meet the customer's needs. An agreement regarding co-location may also include potential co-ownership of the electric generation and associated facilities by the electrical utility and the customer.

(E) Notwithstanding opportunities for co-located resources, the General Assembly also encourages electrical utilities to continue to facilitate service to new electric loads in excess of 50 megawatts and to require operational and financial performance requirements for such customers to receive service pursuant to tariffed electrical utility rates or contracts approved by the commission, and to ensure appropriate protections and risk mitigation for the protection of the electrical utility's

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existing customers. The electrical utility may meet these objectives by: (1) filing form contracts with the commission; (2) tariff offerings or services regulations filed with the commission; or (3) performance and credit policies reviewed by the Office of Regulatory Staff.

SECTION 37. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-15. (A) As of July 1, 2025, there is hereby created within the Office of Regulatory Staff a division that must be separate and apart from all other divisions within the Office of Regulatory Staff and titled the Division of Consumer Advocacy.

(B) The duties, functions, and responsibilities of the Division of Consumer Advocacy in the Department of Consumer Affairs related to appearances before the commission are hereby transferred to the Division of Consumer Advocacy in the Office of Regulatory Staff on July 1, 2025. All appropriations and full-time equivalent positions of the Division of Consumer Advocacy in the Department of Consumer Affairs that are devoted solely to advocating on behalf of consumers before the commission shall be transferred to the Office of Regulatory Staff on July 1, 2025.

(C) The Division of Consumer Advocacy shall have the ability to represent residential utility consumers in matters before the commission and appellate courts.

(D) The Division of Consumer Advocacy shall consist of a Residential Utility Consumer Advocate and other personnel as may be necessary in order for the division to represent residential utility consumers in matters before the commission and appellate courts. The Residential Utility Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of eight years practice experience and must be appointed in the same manner as the Executive Director of the Office of Regulatory Staff pursuant to the procedure set forth in Section 58-4-30.

(E) To the extent necessary to carry out its responsibilities, the Division of Consumer Advocacy may hire third-party consultants as the Residential Utility Consumer Advocate may consider necessary to assist the Division of Consumer Advocacy in its participation in proceedings before the commission and appellate courts.

(F) The Division of Consumer Advocacy is exempt from the State Procurement Code in the hiring of third-party consultants. However, the Division of Consumer Advocacy must not hire the same third-party consultant hired by the Office of Regulatory Staff or the commission.

(G) The Office of Regulatory Staff shall provide such

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administrative support to the Division of Consumer Advocacy as the division may require in the performance of its duties including financial management, human resources management, information technology, procurement services, and logistical support. The Office of Regulatory Staff shall not provide to the Division of Consumer Advocacy, and the Division of Consumer Advocacy shall not require of the Office Regulatory Staff, legal representation, technical, economic, or auditing assistance regarding any matter pending before the Public Service Commission when providing such assistance would create a conflict of interest.

SECTION 38. (A) To foster economic development and future jobs in this State resulting from the supply-chains associated with the same while supporting the significant and growing energy and capacity needs of the State, enhance grid resiliency, and maintain reliability, the General Assembly finds that the State of South Carolina should take steps necessary to encourage the development of a diverse mix of long-lead, clean generation resources that may include advanced small modular reactors, biomass as defined in Section 12-63-20(B)(2) of the S.C. Code, hydrogen-capable resources, and the Carolina Long Bay Project, and should preserve the option of efficiency development of such long-lead resources with timely actions to establish or maintain eligibility for or capture available tax or other financial incentives or address operational needs.

(B) For an electrical utility to capture available tax or other financial or operational incentives for South Carolina ratepayers in a timely manner, the commission may find that actions by an electrical utility in pursuit of the directives in Section 58-37-35(A) are in the public interest, provided that the commission determines that such proposed actions are in the public interest and reasonably balance economic development and industry retention benefits, capacity expansion benefits, resource adequacy and diversification, emissions reduction levels, and potential risks, costs, and benefits to ratepayers and otherwise comply with all other legal requirements applicable to the electrical utility's proposed action. For the South Carolina Public Service Authority, the Office of Regulatory Staff and the Public Service Authority's board of directors shall apply the same principles described in this subsection in evaluating and approving actions proposed by the management of the Public Service Authority to achieve the objectives of this section.

SECTION 39. All reasonable and prudent costs incurred by an electrical utility necessary to effectuate this act, that are not precluded

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from recovery by other provisions of this act and that do not have a recovery mechanism otherwise specified in this act or established by state law, shall be deferred for commission consideration of recovery in any proceeding initiated pursuant to Section 58-27-870, and allowed for recovery if the commission determines the costs are reasonable and prudent.

SECTION 40. An electrical utility, including the Public Service Authority, may not offer a tariff, rider, or rate proposal for a reduced electric rate, nor any other form of incentive that would result in a reduced electric rate to a data center until July 1, 2034. For purposes of this section, “data center” means any facility that primarily contains electronic equipment used to process, store, and transmit digital information which may be (a) a free-standing structure; or (b) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

SECTION 41. Section 58-40-10(F) of the S.C. Code is amended to read:

(F) “Renewable energy resource” means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources as defined in Section 12-63-20(B)(2).

SECTION 42. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the regulation of electrical utilities, the provision of electricity, and economic development as clearly enumerated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 43. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and

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treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 44. 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 45. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Rep. JEFFERSON explained the amendment.

Rep. WETMORE demanded the yeas and nays which were taken, resulting as follows:

Yeas 84; Nays 27

Those who voted in the affirmative are:

Anderson	Atkinson	Bailey
Bannister	Beach	Blackwell
Bradley	Brewer	Brittain
Burns	Bustos	Carter
Chapman	Chumley	Collins
Connell	B. J. Cox	B. L. Cox
Crawford	Cromer	Davis
Elliott	Felder	Forrest
Gagnon	Gibson	Gilliam
Guest	Guffey	Hager
Hardee	Hartnett	Hayes
Herbkersman	Hewitt	Hiott
Hixon	Hosey	Jefferson
J. E. Johnson	S. Jones	Jordan

[HJ]



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Kilmartin	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	Magnuson
May	McCravy	McGinnis
Mitchell	J. Moore	T. Moore
A. M. Morgan	T. A. Morgan	Murphy
Neese	B. Newton	W. Newton
O'Neal	Oremus	Pace
Pedalino	Pope	Robbins
Sandifer	Schuessler	G. M. Smith
M. M. Smith	Taylor	Thayer
Trantham	Vaughan	Weeks
West	White	Whitmire
Williams	Willis	Yow

**Total--84**

Those who voted in the negative are:

Ballentine	Bamberg	Bauer
Bernstein	Calhoon	Clyburn
Cobb-Hunter	Dillard	Garvin
Gilliard	Harris	Hart
Henderson-Myers	J. L. Johnson	W. Jones
King	McCabe	McDaniel
Moss	Ott	Pendarvis
Rose	Rutherford	Spann-Wilder
Stavrinakis	Wetmore	Wooten

**Total--27**

So, the amendment was adopted.

Rep. JEFFERSON explained the Bill.

The question recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 71; Nays 37

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Those who voted in the affirmative are:

Anderson	Atkinson	Bailey
Ballentine	Bannister	Bauer
Bernstein	Blackwell	Bradley
Brewer	Brittain	Bustos
Calhoon	Caskey	Chapman
Connell	B. J. Cox	B. L. Cox
Crawford	Dillard	Elliott
Erickson	Felder	Forrest
Gagnon	Gilliard	Guest
Guffey	Haddon	Hager
Hardee	Hartnett	Hayes
Herbkersman	Hewitt	Jefferson
J. E. Johnson	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	McGinnis
Mitchell	T. Moore	Murphy
Neese	B. Newton	W. Newton
Ott	Pedalino	Pope
Robbins	Rose	Sandifer
Schuessler	G. M. Smith	M. M. Smith
Stavrinakis	Taylor	Weeks
West	Wetmore	White
Whitmire	Williams	Willis
Wooten	Yow	

**Total--71**

Those who voted in the negative are:

Bamberg	Beach	Burns
Chumley	Clyburn	Cobb-Hunter
Cromer	Garvin	Gibson
Gilliam	Harris	Hart
Henderson-Myers	Hosey	J. L. Johnson
S. Jones	W. Jones	Kilmartin
King	Magnuson	May
McCabe	McCravy	McDaniel
J. Moore	A. M. Morgan	T. A. Morgan
Moss	O'Neal	Oremus
Pace	Pendarvis	Rutherford

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Spann-Wilder  
Vaughan

Thayer

Trantham

**Total--37**

So, the Bill, as amended, was read the second time and ordered to third reading.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. GUFFEY a temporary leave of absence.

**S. 610--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 610 -- Senators Cromer, Shealy and Climer: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "PROFESSIONAL COUNSELING COMPACT ACT" BY ADDING ARTICLE 6 TO CHAPTER 75, TITLE 40 SO AS TO PROVIDE THE PURPOSE, FUNCTIONS, OPERATIONS, AND DEFINITIONS FOR THE COMPACT.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 610 (LC-610.HA0003H), which was adopted:

Amend the bill, after the title but before the enacting words, by adding:

Whereas, South Carolina is achieving remarkable economic development success which is bringing jobs and prosperity to its citizens; and

Whereas, from January to December 2023, the state announced total capital investments of 9.22 billion dollars and over 14,000 jobs, the second largest amount in state history; and

Whereas, in 2022, the state announced 120 projects creating over 14,000 new jobs with 10.27 billion dollars in new capital investment, the largest amount in state history; and

Whereas, since 2017, the state has announced over 36.4 billion dollars in new investments and 86,378 new jobs; and

Whereas, according to the U.S. Census Bureau, South Carolina led the nation in population growth in 2023; and

Whereas, the rapidly expanding population and record-breaking economic development successes necessitate a strategic and forward-thinking approach to developing new energy infrastructure capable of

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meeting the energy needs of South Carolina's residents and supporting the continued prosperity of the state; and

Whereas, sustaining this success in economic development requires an electric system that can grow and modernize to meet the demands that a prosperous and developing economy places on it; and

Whereas, the South Carolina General Assembly recognizes that the convergence of escalating population growth, record-breaking economic success, and the aging of existing energy infrastructure has created a critical juncture, demanding immediate and decisive action to avert an impending energy crisis; and

Whereas, the urgency of addressing this situation is underscored by the interconnected challenges of meeting surging energy demand, ensuring grid reliability, and fortifying the state's resilience against potential disruptions, thereby compelling the imperative for the timely construction of new energy plants to safeguard the continued well-being and economic vitality of South Carolina; and

Whereas, in light of these facts, it is important that the General Assembly take action to ensure that generation and transmission providers are able to plan, site, and construct new and replacement generation and transmission resources in a timely and cost-effective manner, utilizing procedures that are fair, prompt, efficient, and guided by an informed Public Service Commission; and

Whereas, the General Assembly has determined that certain aspects of the current regulatory structure in South Carolina can be revised to reduce the cost, delay, and uncertainty of planning, siting, and constructing new generation and transmission resources serving customers in this state; and

Whereas, the General Assembly further finds that the current circumstances present a unique opportunity to replace or limit reliance on the Williams Generating Station operated by Dominion Energy South Carolina, Inc. ("DESC") in Bushy Park, South Carolina; and the Winyah Generating Station operated South Carolina Public Service Authority ("SCPSA") in Georgetown, South Carolina, and perhaps other units as well, through a joint venture between these utilities; and

Whereas, DESC owns the site of the retired Canadys coal units in Colleton County (the "Canadys site") which represent an environmentally well-characterized brownfield site with unique attributes, including electric transmission infrastructure on-site, proximity to a major switching station interconnecting the DESC and SCPSA transmission systems serving coastal South Carolina, and reasonable proximity to natural gas supplies which can be accessed

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through existing natural gas rights of way; and

Whereas, modern combined-cycle units provide dispatchability and operating flexibility that will allow DESC and SCPSA systems to continue to add large amounts of flexible resources to their systems without jeopardizing cost-efficient and reliable service to customers; and

Whereas, the integrated resource planning by both utilities consistently indicates the need for and benefit of additional combined-cycle natural gas resources under multiple planning scenarios; and

Whereas, by pursuing replacement resources as a joint project, DESC and SCPSA can build larger, more fuel-efficient, lower-emitting units, and can reduce the capital cost per MW of these units by as much as 25% or more compared to building single, stand-alone units sized to meet their individual needs alone while at the same time reducing the environmental and land-use impact of the natural gas pipeline and transmission infrastructure required to support separate units; and

Whereas, the joint project can provide a unique opportunity to anchor the expansion of natural gas pipelines serving certain coastal counties of South Carolina where economic development is currently hampered by the lack of such supplies, thereby increasing jobs, prosperity and public welfare in those areas and can do so with minimal environmental disruption; and

Whereas, in light of the unique circumstances presented by the shared needs of DESC and SCPSA for replacement generation in the Charleston and Georgetown areas, the unique benefits of a partnership between them for this purpose, and the unique benefits of the Canadys site as the location for a joint resource, the General Assembly finds that these circumstances support amending the enabling act of the SCPSA to authorize it in a joint venture to develop and share in the output of one or more combined cycle natural gas units to be located at the Canadys site and encourages the utility to seek, as soon as practicable, a certificate as defined under the terms of the Utility Facility Siting and Environmental Protection Act for DESC to construct and operate combined cycle natural gas units to be located at the Canadys site; and

Whereas, Duke Energy Carolinas Bad Creek Pumped Storage facility, including ongoing uprates, is an approximate 1,640 MW energy storage facility located in Oconee County South Carolina; and

Whereas, Duke Energy Carolina has identified the opportunity to approximately double the output of the Bad Creek Pumped Storage facility by constructing new pump turbines, generators, and a new powerhouse; and

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Whereas, by increasing the generating capacity at the Bad Creek facility, Duke Energy Carolinas can approximately double its existing peak hourly storage capacity; and

Whereas, in light of the unique circumstances presented by the potential expansion of Duke Energy Carolinas' energy storage capacity by expanding the Bad Creek facility without construction of a new reservoir, and considering the unique benefits for customers served by Duke Energy Carolinas' electrical system such an expansion represents, the General Assembly encourages the utility to complete evaluations related to expanding the Bad Creek facility to double its output; and

Whereas, in light of the unique circumstances presented in the plans of Duke Energy Carolinas LLC and Duke Energy Progress LLC to secure approximately 7,000 MW of natural gas generation facilities for the benefit of their customers in South Carolina, the General Assembly encourages the utilities to undertake such activities as may be necessary to pursue and facilitate additional natural gas generation to serve its customers in this state; and

Whereas, the South Carolina General Assembly recognizes the potential for substantial economic and environmental benefits through the implementation of robust energy efficiency and demand-side management initiatives; and

Whereas, investing in energy efficiency and demand-side management initiatives not only reduces overall energy consumption but also alleviates the strain on existing electric generation infrastructure, leading to cost savings for consumers, businesses, and the state; and

Whereas, the promotion of energy efficiency and demand-side management initiatives offers a prudent and cost-effective approach to address increasing energy demands, thereby lessening the necessity for construction of new electric-generation facilities in the future, and contributing to a more sustainable and resilient energy future for South Carolina; and

Whereas, the South Carolina General Assembly acknowledges the transformative potential of advanced nuclear generation, such as small modular reactors (SMRs), understanding that their compact size addresses significant challenges associated with traditional nuclear power, offering the promise of expedited and cost-effective plant construction, coupled with enhanced safety in operational practices, along with offering reliable carbon-free energy generation that can operate nearly 24/7; and

Whereas, the South Carolina General Assembly recognizes the strategic importance of investigating in and pursuing advanced nuclear

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technologies such as small modular reactors and molten salt reactors at this time, understanding that proactive engagement in research and development positions the state to capitalize on future opportunities when SMRs become economically and technologically viable; and

Whereas, the SC Nexus for Advanced Resilient Energy consortium, developed in collaboration with our research universities, technical colleges, state agencies, the Savannah River National Laboratory, economic development non-profits, and private businesses, won the U.S. Department of Commerce's Economic Development Administration's designation as one of the Regional Technology and Innovation Hubs; and

Whereas, the South Carolina General Assembly recognizes establishing an Energy Policy Institute is a pivotal step towards supporting the efforts of SC Nexus and for guiding informed decision-making for the state's energy future; and

Whereas, understanding the complexity of energy issues, the establishment of an Energy Policy Institute is essential to equipping the state with the necessary expertise and resources to make well-informed choices, fostering a comprehensive understanding of intricate energy matters; and

Whereas, SC Nexus will assist the state as a global leader in advanced energy by developing, testing, and deploying exportable energy technologies and understanding that new manufactures of those technologies can locate their operations at a place of their choosing, an Energy Policy Institute is integral to positioning the state strategically for economic development success by ensuring the economic benefits resulting from SC Nexus remain in South Carolina, and ensuring that energy policies align with the state's growth objectives and policy goals, while simultaneously safeguarding the interests of ratepayers and promoting a sustainable and resilient energy landscape; and

Whereas, it is imperative to direct the Office of Regulatory Staff (ORS) to conduct a comprehensive energy assessment and formulate a ten-year energy action plan not only to identify additional actions to take over the next decade to address the critical need to ensure an adequate and reliable power supply but also to serve as a proactive forum to thoroughly examine unresolved issues vital to achieving economic development success within the dynamic and evolving energy sector; and

Whereas, the South Carolina General Assembly determines that comprehensive legislation is needed to promote the development of new and reliable energy infrastructure resources, fostering resilient and

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reliable energy infrastructure critical to the economic success of the state of South Carolina. Now, therefore,

Amend the bill further, by striking all after the enacting words and inserting:

SECTION 1. This act may be cited as the “Professional Counseling Compact Act”.

SECTION 2. Chapter 75, Title 40 of the S.C. Code is amended by adding:

Article 6

Professional Counseling Compact

Section 40-75-910. (A) The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of the states to protect public health and safety through the current system of state licensure.

(B) This compact is designed to achieve the following objectives:

(1) increase public access to professional counseling services by providing for the mutual recognition of other member state licenses;

(2) enhance the states’ ability to protect the public’s health and safety;

(3) encourage the cooperation of member states in regulating multistate practice for licensed professional counselors;

(4) support spouses of relocating active duty military personnel;

(5) enhance the exchange of licensure, investigative, and disciplinary information among member states;

(6) allow for the use of telehealth technology to facilitate increased access to professional counseling services;

(7) support the uniformity of professional counseling licensure requirements throughout the states to promote public safety and public health benefits;

(8) invest all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time of care is rendered through the mutual recognition of member state licenses;

(9) eliminate the necessity for licenses in multiple states; and

(10) provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

Section 40-75-920. As used in this compact, and except as otherwise provided, the following definitions shall apply:



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(1) “Active duty military” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

(2) “Adverse action” means any administrative, civil, equitable, or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual’s license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, or any other encumbrance on licensure affecting a licensed professional counselor’s authorization to practice, including issuance of a cease and desist action.

(3) “Alternative program” means a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.

(4) “Continuing competence/education” means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

(5) “Counseling compact commission or commission” means the national administrative body whose membership consists of all states that have enacted the compact.

(6) “Current significant investigative information” means:

(a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had the opportunity to respond.

(7) “Data system” means a repository of information about licensees including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice, and adverse action information.

(8) “Encumbered license” means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).

(9) “Encumbrance” means a revocation of, suspension of, or any

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limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.

(10) “Executive committee” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them, by the commission.

(11) “Home state” means the member state that is the licensee’s primary state of residence.

(12) “Impaired practitioner” means an individual who has conditions that may impair their ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(13) “Investigative information” means information, records, and documents received or generated by a professional counseling licensing board pursuant to an investigation.

(14) “Jurisprudence requirement” if required by a member state, means the assessment of an individual’s knowledge of the laws and rules governing the practice of professional counseling in the state.

(15) “Licensed professional counselor” means a counselor licensed by a member state regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.

(16) “Licensee” means an individual who currently holds an authorization from the state to practice as a licensed professional counselor.

(17) “Licensing board” means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.

(18) “Member state” means a state that has enacted the compact.

(19) “Privilege to practice” means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.

(20) “Professional counseling” means the assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.

(21) “Remote state” means a member state other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

(22) “Rule” means a regulation promulgated by the commission that has the force of law.

(23) “Single state license” means a licensed professional counselor license issued by a member state that authorizes practice only

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within the issuing state and does not include a privilege to practice in any other member state.

(24) “State” means any state, commonwealth, district, or territory of the United States of America that regulates the practice of professional counseling.

(25) “Telehealth” means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.

(26) “Unencumbered license” means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

Section 40-75-930. (A) To participate in the compact, a state must currently:

- (1) license and regulate licensed professional counselors;
- (2) require licensees to pass a nationally recognized exam approved by the commission;
- (3) require licensees to have a sixty semester hours (or ninety quarter hours) master’s degree in counseling or sixty semester hours (or ninety quarter hours) of graduate course work including the following topic areas:

- (a) professional counseling orientation and ethical practice;
- (b) social and cultural diversity;
- (c) human growth and development;
- (d) career development;
- (e) counseling and helping relationships;
- (f) group counseling and group work;
- (g) diagnosis and treatment; assessment, and testing;
- (h) research and program evaluation; and
- (i) other areas as determined by the commission;

(4) require licensees to complete a supervised postgraduate professional experience as defined by the commission; and

(5) have a mechanism in place for receiving and investigating complaints about licensees.

(B) A member state shall:

(1) participate fully in the commission’s data system, including using the commission’s unique identifier as defined in rules;

(2) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(3) implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These

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procedures shall include the submission of fingerprints or other biometric based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(a) a member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions;

(b) communication between a member state, the commission and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(4) comply with the rules of the commission;

(5) require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(6) grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and

(7) provide for the attendance of the state's commissioner to the counseling compact commission meetings.

(C) Member states may charge a fee for granting the privilege to practice.

(D) Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

(F) A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

Section 40-75-940. (A) To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall:

(1) hold a license in the home state;

(2) have a valid United States social security number or national practitioner identifier;

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(3) be eligible for a privilege to practice in any member state in accordance with subsections (D), (G), and (H);

(4) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;

(5) notify the commission that the licensee is seeking the privilege to practice within a remote state;

(6) pay any applicable fees, including any state fee, for the privilege to practice;

(7) meet any continuing competence/education requirements established by the home state;

(8) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice; and

(9) report to the commission any adverse action, encumbrance, or restriction on a license taken by any nonmember state within thirty days from the date the action is taken.

(B) The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (A) to maintain the privilege to practice in the remote state.

(C) A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

(D) A licensee providing professional counseling services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines are paid.

(E) If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until the following occur:

(1) the home state license is no longer encumbered; and

(2) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(F) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (A) to obtain a privilege to practice in any remote state.

(G) If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until the following occur:

(1) the specific period of time for which the privilege to practice

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was removed has ended;

(2) all fines have been paid; and

(3) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(H) Once the requirements of subsection (G) have been met, the licensee must meet the requirements in subsection (A) to obtain a privilege to practice in a remote state.

Section 40-75-950. (A) A licensed professional counselor may hold a home state license, which allows for a privilege to practice in other member states, in only one member state at a time.

(B) If a licensed professional counselor changes primary state of residence by moving between two member states:

(1) The licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.

(2) Upon receipt of an application for obtaining a new home state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in Section 40-75-940 via the data system, without need for primary source verification except for:

(a) a Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(b) other criminal background check as required by the new home state; and

(c) completion of any requisite jurisprudence requirements of the new home state.

(3) The former home state shall convert the former home state license into a privilege to practice once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.

(4) Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in Section 40-75-940, the new home state may apply its requirements for issuing a new single state license.

(5) The licensed professional counselor shall pay all applicable fees to the new home state in order to be issued a new home state license.

(C) If a licensed professional counselor changes primary state of residence by moving from a member state to a nonmember state, or from

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a nonmember state to a member state, the state criteria shall apply for issuance of a single state license in the new state.

(D) Nothing in this compact shall interfere with a licensee's ability to hold a single state license in multiple states, however for the purposes of this compact, a licensee shall have only one home state license.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

Section 40-75-960. Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state, or through the process outlined in Section 40-75-950.

Section 40-75-970. (A) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with Section 40-75-930 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

(B) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

Section 40-75-980. (A) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(1) take adverse action against a licensed professional counselor's privilege to practice within that member state, and

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located; and

(3) only the home state shall have the power to take adverse action against a licensed professional counselor's license issued by the

home state.

(B) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(C) The home state shall complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

(D) A member state, if otherwise permitted by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensed professional counselor.

(E) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(F) Joint investigations:

(1) In addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(G) If adverse action is taken by the home state against the license of a licensed professional counselor, the licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.

(H) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(I) Nothing in this compact shall override a member state's decision



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that participation in an alternative program may be used in lieu of adverse action.

Section 40-75-990. (A) The compact member states hereby create and establish a joint public agency known as the Counseling Compact Commission:

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(B) Membership, voting, and meetings:

(1) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

(2) The delegate shall be either:

(a) a current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or

(b) an administrator of the licensing board.

(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(4) The member state licensing board shall fill any vacancy occurring on the commission within sixty days.

(5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(8) The commission shall by rule establish a term of office for delegates and may by rule establish term limits.

(C) The commission shall have the following powers and duties:

(1) establish the fiscal year of the commission;

(2) establish bylaws;

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- (3) maintain its financial records in accordance with the bylaws;
- (4) meet and take such actions as are consistent with the provisions of this compact and the bylaws;
- (5) promulgate rules which shall be binding to the extent and in the manner provided for in the compact;
- (6) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;
- (7) purchase and maintain insurance and bonds;
- (8) borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;
- (9) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- (10) accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;
- (11) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;
- (12) sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
- (13) establish a budget and make expenditures;
- (14) borrow money;
- (15) appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;
- (16) provide and receive information from, and cooperate with, law enforcement agencies;
- (17) establish and elect an executive committee; and
- (18) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice.

(D) The executive committee:

- (1) The executive committee shall have the power to act on behalf

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of the commission according to the terms of this compact.

(2) The executive committee shall be composed of up to eleven members:

(a) seven voting members who are elected by the commission from the current membership of the commission; and

(b) up to four ex officio, nonvoting members from four recognized national professional counselor organizations.

(c) The ex officio members will be selected by their respective organizations.

(3) The commission may remove any member of the executive committee as provided in the bylaws.

(4) The executive committee shall meet at least annually.

(5) The executive committee shall have the following duties and responsibilities:

(a) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the privilege to practice;

(b) Ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) other duties as provided in the rules or bylaws.

(E) Meetings of the commission:

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 40-75-1010.

(2) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase, lease, or sale of

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goods, services, or real estate;

(e) accusing any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigative records compiled for law enforcement purposes;

(i) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(F) Financing of the commission:

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated

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based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(G) Qualified immunity, defense, and indemnification:

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment,

duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 40-75-1000. (A) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(B) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (1) identifying information;
- (2) licensure data;
- (3) adverse actions against a license or privilege to practice;
- (4) nonconfidential information related to alternative program participation;
- (5) any denial of application for licensure, and the reason for such denial;
- (6) current significant investigative information; and
- (7) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(C) Investigative information pertaining to a licensee in any member state will only be available to other member states.

(D) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(E) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(F) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

Section 40-75-1010. (A) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and

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have no force or effect.

(B) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(C) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(D) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(E) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) on the website of the commission or other publicly accessible platform; and

(2) on the website of each member state professional counseling licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(F) The notice of proposed rulemaking shall include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(G) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(H) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty-five persons;

(2) a state or federal governmental subdivision or agency; or

(3) an association having at least twenty-five members.

(I) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the

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commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings will be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(J) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(K) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(L) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(M) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) meet an imminent threat to public health, safety, or welfare;
- (2) prevent a loss of commission or member state funds;
- (3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (4) protect public health and safety.

(N) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall



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be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 40-75-1020. (A) Oversight:

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(B) Default, technical assistance, and termination:

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(C) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(D) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the

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commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(E) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(F) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(G) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(H) Dispute resolution:

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(I) Enforcement:

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 40-75-1030. (A) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and

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administration of the compact.

(B) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact shall be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(E) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 40-75-1040. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 40-75-1050. (A) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.

(B) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

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(C) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(D) Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

(E) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(F) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 3. Section 40-75-220 of the S.C. Code is amended to read:

Section 40-75-220. (A) To be licensed by the board as a professional counselor, marriage and family therapist, or addiction counselor, an individual must:

(1) pay the appropriate fees and pass an examination approved by the board;

(2) complete forms prescribed by the board; and

(3) complete the following educational requirements:

(a) for licensed professional counselor or marriage and family therapist, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar educational standards and by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree; or

(b) for licensed addiction counselor, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar standards and the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, the National Addiction Studies

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Accreditation Commission, other board-approved educational institution, or a regionally accredited institution of higher learning.

(B) In addition to other requirements established by law, a person applying to be a licensed professional counselor, as defined in Section 40-75-20(13), must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Cost of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action. The results of these criminal record checks must not be shared outside the department.

(C) In addition to other requirements established by law, a licensed professional counselor applying to enter the compact via a privilege to practice must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Cost of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action. The results of these criminal record checks must not be shared outside the department.

SECTION 4. This act may be cited as the “South Carolina Energy Security Act”.

SECTION 5. Section 58-3-20 of the S.C. Code is amended to read:

Section 58-3-20. (A) The commission is composed of ~~seven~~three members to be elected by the General Assembly in the

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manner prescribed by this chapter. Each member must have:

(1) a baccalaureate or more advanced degree from:

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

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

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

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

(a) energy issues;

(b) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

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

~~—————(2) In the event there are Seven Congressional Districts, the member elected from the State at large shall serve until the expiration of his term, and in 2013, a member representing the Seventh Congressional District must be elected for a term ending on June 30,~~

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~~2016, and until his successor is elected and qualified. Thereafter, the member representing the Seventh Congressional District must be elected to terms of four years and until his successor is elected and qualified. Upon the election and qualification of the member representing the Seventh Congressional District, the at large member elected to satisfy the requirements of subsection (C) immediately shall cease to be a member of the commission.~~

~~(C) (B)(1) The General Assembly must provide for the election of the seventhree-member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify. The commission members must be elected to terms of four years and until their successors are elected and qualify.~~

~~(2) The commission members must be elected from the state at large; however, membership on the commission should reflect all segments of the population of the State, to the greatest extent possible.~~

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

SECTION 6. Section 58-3-140 of the S.C. Code is amended to read:

Section 58-3-140. (A)(1) Except as otherwise provided in Chapter 9 of this title, the commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be

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furnished, imposed, or observed, and followed by every public utility in this State.

(2) The commission must promulgate regulations to establish safety, maintenance, and inspection standards for the public utilities and may assess fines for public utilities that violate these standards.

(B)(1) The commission, in conducting its analysis and making a decision in matters involving electrical utilities, must consider the economic impact to the State when fixing just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every electrical utility in this State.

(2) The General Assembly declares the rates, services, and operations of electrical utilities are a matter of public interest and the availability of an adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina is a matter of public policy. When exercising its powers under this section, the commission must balance the public interest in determining the rates, services, and operations of electrical utilities. It is the policy of this State for the commission, in matters involving electrical utilities, to:

(a) ensure South Carolina customers have access to an adequate, reliable, and economical supply of energy resources;

(b) sustain growth in industrial and economic development by ensuring an electric generation, transmission, and distribution system that can grow and modernize to meet the demands that a prosperous and developing economy places on it;

(c) provide fair regulation of electrical utilities in the interest of the public in a manner that maintains the financial integrity of the electrical utility by assuring a sufficient and fair rate of return, supports economic development and industry retention, and provides just and reasonable rates to be established for entities providing electrical utility services to customers in this State while promoting adequate, reliable, and economical utility service to all of the citizens and residents of this State;

(d) provide the State and the public with a well-regulated electrical utility environment;

(e) assure that resources necessary to meet future growth through the provision of adequate, reliable electrical utility service include use of the entire spectrum of demand-side options, including but not limited to, conservation, load management, and energy



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efficiency programs as additional sources of energy supply and energy demand reduction;

(f) provide just and reasonable rates and charges for electrical utility services without undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic generation and uses of energy;

(g) assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities, and to that end, to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities;

(h) recognize the important role of utilities in economic development and industry retention and the necessity for utilities to maintain the ability to finance continued investment in, and operation and maintenance of, the electric system, rapid restoration of power after major storms and outages, rate designs, and infrastructure necessary to attract and retain businesses and jobs to South Carolina, the ability to obtain financing at attractive rates, and to ensure a viable workforce for providing electricity and to attract such utility workers at market-competitive wages;

(i) seek to encourage and promote harmony between public utilities, their users, and the environment;

(j) foster the continued service of electrical utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare, economic development, and industry retention;

(k) seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide economic development and industry retention;

(l) encourage the continued study and research on new and innovative rate designs which will protect the State, the public, the ratepayers and the utilities;

(m) facilitate the construction of facilities in and the extension of natural gas service to unserved and underserved areas in order to promote the public welfare throughout the State;

(n) further the development of cleaner energy technologies on a cost-effective basis to protect the natural resources of this State, promote the health and well-being of the people of this State,

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and attract investments, create employment opportunities, drive economic growth, and foster innovation in this State; and

(o) accomplish regulatory processes and issue orders in a timely manner.

~~(B)~~(C) The commission must develop and publish a policy manual which must set forth guidelines for the administration of the commission. All procedures must incorporate state requirements and good management practices to ensure the efficient and economical utilization of resources.

~~(C)~~(D) The commission must facilitate access to its general rate request orders in contested matters involving more than one hundred thousand dollars by publishing an order guide which indexes and cross-references orders by subject matter and case name. The order guide must be made available for public inspection.

~~(D)~~(E) The commission must promulgate regulations to require the direct testimony of witnesses appearing on behalf of utilities and of witnesses appearing on behalf of persons having formal intervenor status, such testimony to be reduced to writing and prefiled with the commission in advance of any hearing. In contested case proceedings, the applicant seeking relief from the commission shall have the right to prefile rebuttal testimony responsive to the direct prefiled testimony of other parties. The commission may allow supplemental testimony in cases where new matters arise after the filing of direct testimony, provided that parties shall have the right to respond to such supplemental testimony. The procedural schedule for each contested case proceeding shall include dates for completion of each phase of discovery, including discovery related to the application or other initial pleading as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, rebuttal testimony of the applicant, and surrebuttal testimony but only if allowed by the commission upon motion that there is material new information for which surrebuttal testimony is required. The commission must act on a motion to allow surrebuttal testimony within three business days. Except upon showing of exceptional circumstances or surprise, all discovery must be completed not less than ten days prior to the hearing.

(F) The commission may convene public hearings to allow electrical utility customers to address the commission as public witnesses without intervening in the proceedings and without subjecting themselves to discovery or prefiling testimony. Public witnesses may address the commission on issues related to customer service, utility operations, reliability, economic hardship, affordability, environmental

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concerns, or other matters that affect them. The electrical utility and the Office of Regulatory Staff shall work to investigate and resolve individual service issues raised by public witnesses.

(G) Any other provision of law notwithstanding, to the extent the commission is authorized by the General Assembly to employ an independent third-party consultant to assist the commission in its duties with respect to a matter before the commission, such consultant may only rely upon evidence introduced by a party to that proceeding into the record subject to the requirements of the South Carolina Administrative Procedures Act. Further, the commission may not give any consultant employed by the commission party status in a proceeding before the commission.

~~(E)~~(H) Nothing in this section may be interpreted to repeal or modify specific exclusions from the commission's jurisdiction pursuant to Title 58 or any other title.

~~(F)~~(I) When required to be filed, tariffs must be filed with the office of the chief clerk of the commission and, on that same day, provided to the Executive Director of the Office of Regulatory Staff.

SECTION 7. Section 58-3-250(B) of the S.C. Code is amended to read:

(B) A copy of every final order or decision under the seal of the commission must be served by electronic service, or registered or certified mail, upon all parties to the proceeding or their attorneys. Service of every final order or decision upon a party or upon the attorney must be made by emailing a copy of the order to the party's email address provided to the commission or by mailing a copy to the party's last known address. If no email or other address is known, however, service shall be made by leaving a copy with the chief clerk of the commission. The order takes effect and becomes operative when served unless otherwise designated and continues in force either for a period designated by the commission or until changed or revoked by the commission. If, in the judgment of the commission, an order cannot be complied with within the time designated, the commission may grant and prescribe additional time as is reasonably necessary to comply with the order and, on application and for good cause shown, may extend the time for compliance fixed in its order.

SECTION 8. Section 58-4-10 of the S.C. Code is amended to read:

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

(B) Unless and until it chooses not to participate, the

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Office of Regulatory Staff must be considered a party of record in all filings, applications, or proceedings before the commission. The regulatory staff must represent the public interest of South Carolina before the commission. For purposes of this chapter only, “public interest” means a balancing of:

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

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

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

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

SECTION 9.Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-150. (A) To further advance and expand upon Executive Order 2023-18 which established the PowerSC Energy Resources and Economic Development Interagency Working Group, the Office of Regulatory Staff, in consultation with a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations, natural gas and electrical utilities, the South Carolina Public Service Authority, and other affected state agencies, shall prepare a comprehensive South Carolina energy assessment and action plan, hereinafter referred to as “the plan”. This plan must identify recommended actions over a ten-year period to ensure the availability of adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina. For purposes of this section, natural gas and electrical utilities also includes any investor-owned electrical utility, a public utility as defined in Section 58-5-10, the Public Service Authority, electric cooperatives, and any consolidated political subdivision that owns or operates in this State equipment or facilities for generating, transmitting, delivering, or furnishing electricity, but does not include an entity that furnishes electricity only to itself, its residents, or tenants when such current is not resold or used by others.

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(B) The Office of Regulatory Staff, in collaboration with the electrical utilities and the South Carolina Public Service Authority, shall aggregate data and analyses from their most recent integrated resource plans approved by the commission, and include any updates or associated filings and other available data in order to create a statewide comprehensive view of the availability of an adequate, reliable, and economical supply of energy resources to the people and economy of South Carolina.

(C) The plan must detail factors, and make recommendations, essential to adequate, reliable, and economical supply of energy resources for the people and economy of South Carolina, including but not limited to:

(1) projections of energy consumption in South Carolina, including the use of fuel resources and costs of electricity and generation resources across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas used to serve the State;

(2) the adequacy of electricity generation, transmission, and distribution resources in this State to meet projections of energy consumption;

(3) the adequacy of infrastructure utilized by natural gas industries in providing fuel supply to electric generation plants or otherwise for end-use customers;

(4) the overall needs of the South Carolina electric grid and transmission system and details from the plans of each electrical utility and the South Carolina Public Service Authority to meet current and future energy needs in a cost-effective, reliable, economic, and environmental manner;

(5) an assessment of state and local impediments to expanded use of generation or distributed resources and recommendations to reduce or eliminate such impediments;

(6) how energy efficiency, demand-side management programs, and conservation initiatives across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas may be expanded to lower bills and reduce electric consumption;

(7) details regarding potential siting of energy resource and transmission facilities in order to identify any disproportionate adverse impact of such activities on the environment, agricultural community, land use, and economically disadvantaged or minority communities;

(8) details regarding commercial and industrial consumer clean energy goals and options available to such customers to achieve these goals, including:

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(a) an analysis of the barriers commercial and industrial consumers face in making such investments in this State;

(b) an analysis of any electric and natural gas regulatory barriers to the recruitment and retention of commercial and industrial customers in this State; and

(c) recommendations to address any barriers identified in items (a) and (b) in a manner that is consistent with the public interest and which is not duly impactful to nonparticipating customers as it pertains to rate and system impacts, and which is not unduly impactful to entities providing public utility services.

(C) In preparing the plan the Office of Regulatory Staff may retain an outside expert to assist with compiling this report.

(D) In addition to the information required by this section, the plan must include recommendations for legislative, regulatory, or other public and private actions to best ensure a reliable and reasonably priced energy supply in South Carolina that supports the continued growth and success of this State. In forming these recommendations, the Office of Regulatory Staff must confer with the stakeholder group to ensure the recommendations would likely achieve the intended result for the electric grid, electric generation, and natural gas resources serving South Carolina customers.

(E) The plan must be submitted to the Public Utilities Review Committee for approval.

(F) The provisions of this section are subject to funding.

SECTION 10. Title 58 of the S.C. Code is amended by adding:

CHAPTER 38

South Carolina Energy Policy Institute

Section 58-38-10. This chapter is known as and may be cited as the “South Carolina Energy Policy Research and Economic Development Institute” or “EPI”.

Section 58-38-20. The General Assembly finds that:

(1) It is in the public interest of South Carolina to establish an Energy Policy Research and Economic Development Institute, also referred to as EPI, to support the efforts of the Advanced Resilient Energy Nexus, also referred to as SC Nexus, and research and propose solutions to address major challenges in the complex and evolving area of energy generation and storage.

(2) Research and documenting reliable data is essential for thoughtful consideration of the complex issues and concerns impacting energy generation and storage and the need for timely, substantive, and thorough advice from the EPI to the South Carolina General Assembly

is critical to continue to position this State as a global leader.

(3) Advancement through the EPI of the broad collaboration through the SC Nexus will assist the State as a global leader in advanced energy by developing, testing, and deploying exportable electricity technologies. It will also allow the State to leverage the region's dynamic and growing manufacturing base, superior research capabilities, and demonstrated record of public-private collaboration to innovate and commercialize emerging energy storage materials and manufacturing techniques, including a demonstrative microgrid implementation that integrates renewable energy and storage into the state's electricity systems.

(4) The topography of South Carolina, with its coastal plains and low country, confronts further complications. While the State possesses renewable energy resources like hydropower potential from its rivers and lakes and biomass from wood and landfill gas, the lack of sustainable energy production exacerbates the energy deficit. It is critical that South Carolina provide safe, reliable, and affordable energy.

(5) The industrial sector in South Carolina accounts for approximately one-third of the state's total energy use and heavily depends on energy consumption. Continued economic development and industry retention depends upon safe, reliable, and affordable energy generation.

(6) South Carolina will need to continue moving toward reliable power from emerging energy sources to ensure continued economic growth and secure energy for residential usage.

(7) The EPI shall collaborate across South Carolina in coordination with SC Nexus, Savannah River National Laboratory, energy utility providers, private industry, and workforce development to deliver advice on policy creation aligned with the state's distinctive needs and opportunities. EPI shall support and collaborate with SC Nexus, a consortium of public and private entities, formed within the South Carolina Department of Commerce concerning power generation, transmission, and storage.

Section 58-38-30. (A) The EPI shall be established by the University of South Carolina to serve as an expert and reliable advisory resource for state policymakers, government, and industry. This institute shall bring together a coalition of experts from various domains within the energy ecosystem, individuals and organizations specializing in innovating public policy approaches, as well as specialists from across higher education, including but not limited to, the University of South Carolina, Clemson University, and South Carolina State University. The

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EPI shall aid South Carolina in developing a strategic long-term approach to address energy-related challenges and economic development opportunities for the State of South Carolina.

(B) The EPI shall be governed by a board of six members which shall provide oversight and guidance to the EPI. This board shall be composed of:

- (1) Speaker of the House of Representatives or his designee;
- (2) President of the Senate or his designee;
- (3) Chairman of the Ways and Means Committee of the House of Representatives, or his designee;
- (4) Chairman of the Finance Committee of the Senate or his designee;
- (5) Chairman of the Labor, Commerce and Industry Committee of the House of Representatives or his designee; and
- (6) Chairman of the Judiciary Committee of the Senate or his designee.

Section 58-38-40. (A) Annual deliverables for the EPI shall align with the goals and priorities of critical state objectives and legislative needs of South Carolina as determined by the board.

(B) The EPI shall prepare concise and informative documents that outline the key energy policy issues in South Carolina for members of the South Carolina General Assembly. These briefs shall offer evidence-based recommendations and their potential impacts to assist the legislature in decision making.

(C) The EPI shall provide in-depth research on various aspects of energy policy relevant to South Carolina, at the direction of the board.

(D) The EPI shall provide stakeholder engagement reports, including identification and engagement with relevant stakeholders in the energy sector, including industry representatives, environmental groups, consumer advocates, and community organizations. The EPI shall compile reports on stakeholder perspectives, concerns, and suggestions to aid the legislature in understanding different viewpoints.

(E) The EPI shall evaluate the economic implications of different energy policy options, including the potential costs and benefits to the state's economy, job market, industry competitiveness, and underdeveloped communities. The EPI must use modeling techniques to estimate direct and indirect impacts on various sectors.

(F) The EPI shall develop practical framework recommendations for implementing energy policies in South Carolina, considering regulatory mechanisms, enforcement mechanisms, and coordination between different government agencies. These frameworks must address



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potential challenges and propose strategies for successful implementation.

(G) The EPI may host fellowships by which entities could offer the time and services of employees by which the EPI could leverage the knowledge, experience, and participation of such entities.

SECTION 11. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-195. (A)(1) The General Assembly finds:

(a) The Public Service Commission, hereinafter referred to as “the commission”, issued Order No. 2023-860 approving Dominion Energy South Carolina, Inc.’s integrated resource plan, and Order No. 2024-171 approving the South Carolina Public Service Authority’s integrated resource plan. The commission determined these integrated resource plans represented the most reasonable and prudent means to meet each utility’s energy and capacity needs as of the time each integrated resource plan was reviewed.

(b) Dominion Energy South Carolina, Inc.’s integrated resource plan identified a natural gas combined cycle unit as the optimum replacement unit for the Williams Station, which Dominion Energy South Carolina, Inc. intends to retire in 2030, assuming replacement capacity is available at that time. Dominion Energy South Carolina, Inc. proposed to locate this natural gas combined cycle unit facility at the site of its now retired Canadys coal plant, and Dominion Energy South Carolina, Inc. is pursuing a plan to build it jointly with the Public Service Authority under a Memorandum of Understanding, also referred to as the “Joint Resource”.

(c) The commission found that Dominion Energy South Carolina, Inc.’s Reference Build Plan replacing the Williams Station with the Joint Resource best meets the criterion of “consumer affordability and least cost” pursuant to Section 58-37-40(C)(2)(b).

(d) The commission found that the Public Service Authority’s Preferred Portfolio, referred to as “Supplemental”, as the preferred plan to guide the Public Service Authority’s generation and transmission planning over the next three years, with updates as necessary, represented the most reasonable and prudent means of meeting the Public Service Authority’s energy and capacity needs.

(e) The commission found the Supplemental is 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.

(f) The commission determined the Public Service Authority

sufficiently considered alternatives to the natural gas combined cycle unit.

(g) The commission found that the Supplemental allows the Public Service Authority to meet the electric power needs of its retail and wholesale customers reliably and affordably, reduces its carbon footprint, and adds flexibility and innovation to support a growing state economy.

(2) The General Assembly encourages Dominion Energy South Carolina, Inc. and the Public Service Authority to jointly complete evaluations related to the Joint Resource and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or authorize construction and operation of the facilities subject to this section in preference to all other pending nonemergency applications or requests. The General Assembly finds adding natural gas generation capacity at the retired Canadys coal site would advance the economy and general welfare of the State based on current conditions and information as of the effective date of this Act. However, this subsection does not exempt the entities from complying with the requirements of the Utility Facility Siting and Environmental Protection Act, including the requirement to seek commission approval for a certificate of environmental compatibility and public convenience and necessity nor does this subsection limit the commission's independent decision-making authority. The entities are further encouraged to use existing rights of way to the greatest extent practicable.

(B) The General Assembly hereby encourages Duke Energy Carolinas, LLC to complete evaluations for constructing a second powerhouse using the existing reservoir at Bad Creek Pumped Hydro Station in Oconee County, South Carolina, which will approximately double the size and peak hourly capacity of the facility, and to use such information as may be necessary from such evaluations to make a filing as soon as practicable with the commission to obtain a certificate pursuant to Article 3 of this chapter. The General Assembly further encourages Duke Energy Carolinas, LLC to complete evaluations as to what may be necessary to interconnect such an expansion of Bad Creek Pumped Hydro Station to the electric grid or otherwise deliver electric power from Duke Energy Carolinas, LLC to its customers, and to include such information as may be necessary from such evaluations in a filing

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to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction and operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(C) The General Assembly hereby encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to complete evaluations for constructing hydrogen capable natural gas generation or otherwise to place into service such natural gas generation within the utilities' balancing areas serving South Carolina, and to use such information from the evaluations as may be necessary to make a filing as soon as practicable with the commission to obtain a certification pursuant to Article 3 of this chapter or as otherwise required by law. The General Assembly further encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to determine what facilities may be necessary to interconnect such natural gas generation to the electric grid or otherwise deliver electric power from the utilities to its customers, and to include such information in any filing to the commission pursuant to Section 58-33-110 or as otherwise required by law. The General Assembly instructs all governmental agencies to provide accelerated consideration of any action required to permit or otherwise authorize construction or operation of the facilities subject to this subsection in preference of all other pending nonemergency applications or requests.

(D)(1) In the event any of the projects described in subsections (A), (B), or (C) are approved, the Office of Regulatory Staff, using its authority provided in Title 58, must continuously monitor the project or projects. This includes, but is not limited to, a review of the construction in progress, such as meeting projected timelines and financial projections are met. The Office of Regulatory Staff must provide monthly updates, in writing, to the commission and to the members of the General Assembly. Each electrical utility and the Public Service Authority must cooperate to the fullest extent with the Office of Regulatory Staff.

(2) The commission may, on its own motion, schedule a hearing to address concerns raised by the Office of Regulatory Staff in its written monthly review to the commission.

(3) The commission shall consider the Office of Regulatory Staff's written monthly reviews in any future matters concerning any facility described in this section.

SECTION 12.Article 1, Chapter 31, Title 58 of the S.C. Code is

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amended by adding:

Section 58-31-205. (A) The Public Service Authority shall have the power to jointly own, as tenants-in-common or through a limited liability company, with investor-owned electric utilities of electrical generation and transmission facilities, the power to plan, finance, acquire, own, operate, and maintain an interest in such plants and facilities necessary or incidental to the generation and transmission of electric power and the power to make plans and enter into such contracts as are necessary or convenient for the planning, financing, acquisition, construction, ownership, operation, and maintenance of such plants and facilities. However, the Public Service Authority shall own a percentage of such plants and facilities equal to the percentage of the money furnished or the value of property supplied by the Public Service Authority for the acquisition and construction of the plants and facilities. The Public Service Authority shall also own and control a like percentage of the electrical output thereof.

(B) The Public Service Authority shall be severally liable in proportion to its ownership share of such plants and facilities acquired pursuant to this section for the acts, omissions, or obligations performed, omitted, or incurred by the operator or other owners of the plants and facilities while acting as the designated agent of the Public Service Authority for the purposes of constructing, operating, or maintaining the plants and facilities, or any of them. However, the Public Service Authority shall not be otherwise liable, jointly or severally, for the acts, omissions, or obligations of other owners of the plants and facilities, nor shall any money or property of the Public Service Authority be credited or otherwise applied to the account of the operator or other owners of the plants and facilities, or be charged with any debt, lien, or mortgage as a result of any debt or obligation of the operator or other owners of the plants and facilities.

SECTION 13. Article 9, Chapter 7, Title 13 of the S.C. Code is amended to read:

Article 9

Governor's Nuclear Advisory Council

Section 13-7-810. There is hereby established a Nuclear Advisory Council in the ~~Department of Administration, Office of Regulatory Staff~~, which shall be responsible to the Executive Director of the ~~Department of Administration, Office of Regulatory Staff~~ and report to the Governor.

Section 13-7-820. The duties of the council, in addition to such other duties as may be requested by the Governor, shall

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be:

(1) to provide advice and recommendations to the Governor on issues involving the use, handling, and management of the transportation, storage, or disposal of nuclear materials within South Carolina, or such use, handling, transportation, storage, or disposal of nuclear materials outside of the State which may affect the public health, welfare, safety, and environment of the citizens of South Carolina;

(2) to provide advice and recommendations to the Governor regarding matters pertaining to the Atlantic Compact Commission;

(3) to provide advice and recommendations to the Governor regarding the various programs of the United States Department of Energy pertaining to nuclear waste;

(4) to meet at the call of the chair or at a minimum twice a year; and

(5) to engage stakeholders and develop a strategic plan to advance the development of advanced nuclear generation including small modular reactors, molten salt reactors, and spent nuclear fuel recycling facilities to serve customers in this State in the most economical manner at the earliest reasonable time possible.

Section 13-7-830. The recommendations described in Section ~~13-7-620~~ 13-7-820 shall be made available to the General Assembly and the Governor.

Section 13-7-840. The council shall consist of ~~nineteen~~ members. One at-large member shall be appointed by the Speaker of the House of Representatives and one at-large member shall be appointed by the President of the Senate. ~~Seven~~ Eight members shall be appointed by the Governor as follows: two shall be actively involved in the area of environmental protection; one shall have experience in the generation of power by nuclear means; one shall have experience in the field of nuclear activities other than power generation; two shall be scientists or engineers from the faculties of institutions of higher learning in the State; and ~~one~~ two shall be from the public at large; of which one shall be appointed to serve as the chairman and director of the Nuclear Advisory Council. The terms of the members of the council appointed by the Governor shall be coterminous with that of the appointing Governor, but they shall serve at the pleasure of the Governor.

Vacancies of the council shall be filled in the manner of the original appointment.

Section 13-7-850. The Governor shall designate the chairman from the membership. When on business of the council,

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members shall be entitled to receive such compensation as provided by law for boards and commissions.

Section 13-7-860. Staff support for the council shall be provided by the ~~Department of Administration~~Office of Regulatory Staff. The Director of the Nuclear Advisory Council must be a full-time employee of the Office of Regulatory Staff.

SECTION 14. Section 37-6-604(C) of the S.C. Code is amended to read:

(C) ~~The~~As of July 1, 2025, the Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission ~~that~~ Advocate's duties regarding intervention in matters that could impact consumers' utility rates, and may intervene as a party and ability to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate are transferred to the Office of Regulatory Staff in order to promote efficiency and avoid duplication of duties.

SECTION 15. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-196. Electrical utilities and the Public Service Authority are encouraged to explore the potential for deploying advanced nuclear facilities including, but not limited to, small modular nuclear facilities at suitable sites. Suitable sites may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and other brownfield sites, such as coal-generation sites. Any utility pursuing deployment of such nuclear facilities must provide annual progress reports to the commission and the Public Utilities Review Committee; this report may be in writing or in the form of testimony in an appropriate proceeding. The utility must provide estimates of the cost of the studies including, but not limited to, planning, licensing, and project development to the commission. If the commission finds such estimated costs are reasonable, prudent, and in the public interest, such costs may be recoverable through rates as they are incurred. Nothing in this section relieves an electrical utility of the burden of filing for a certificate under this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 16. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-70. (A) It is the policy of this State to promote the development and operation of advanced nuclear facilities, including

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small modular nuclear reactors, in the most economical manner and at the earliest reasonable time possible. These facilities are intended to provide electricity that is reliable, resilient, secure, and free of carbon dioxide emissions, as well as promote this state's economic development and industry retention.

(B) As used in this section:

(1) "Electrical utility" has the same meaning as provided in Section 58-27-10(7) and includes the South Carolina Public Service Authority.

(2) "Site" means the geographic location of one or more small modular nuclear reactors.

(3) "Small modular nuclear reactor" means an advanced nuclear reactor that produces nuclear power and has a power capacity of up to 500 megawatts per reactor.

(C) The commission may establish a small modular nuclear reactor pilot program, if such a program is endorsed by the Nuclear Advisory Council. A pilot program must include the following requirements:

(1) any entity that holds a current license from the U.S. Nuclear Regulatory Commission to construct or operate at least one existing nuclear electrical generating facility at the time of the application may apply to the commission for a certificate of public convenience and necessity pursuant to the Utility Facility Siting and Environmental Protection Act;

(2) a certificate may be granted if obtaining a certification of public convenience and necessity would permit the applicant to apply for, use, or leverage at least thirty percent of the construction costs of the small modular nuclear reactor by utilizing any benefits or incentives available to lower the capital or operating costs including, but not limited to, governmental funds, tax credits, grants, and loan guarantees;

(3) the costs and benefits of a small modular nuclear reactor are reasonable and prudent compared to the levelized costs of electricity generation from other resources, applying any governmental tax credits and incentives. Factors that must be considered in levelized costs include fuel factors, economic and environmental benefits, and costs associated with any relative externalities;

(4) no more than three small modular nuclear reactors may receive a permit pursuant to this pilot program.

(D) An application for this pilot program must include:

(1) if the project's location:

(a) is on or adjacent to an existing or former coal electrical generation site;

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(b) is on or adjacent to an existing nuclear facility;

(c) enables coal plant retirement or emissions reduction in the electrical utility's or the South Carolina Public Service Authority's balancing area; or

(d) supports diversity in energy production, reliability, and energy security;

(2) if the project is subject to competitive procurement or solicitation for services and equipment;

(3) a demonstration that the program's costs and benefits are reasonable and prudent and in the interest of South Carolina customers; and

(4) any other information the commission may wish to include in the application.

Nothing in this subsection limits any factors that the commission may consider in its determination of an application.

(E)(1) Reasonable and prudent costs incurred for a small modular nuclear reactor approved pursuant to this section shall be recoverable. In the event an electrical utility abandons a small modular nuclear reactor approved by the commission before its commercial operation, the electrical utility must provide a fulsome accounting to the commission of the circumstances of abandonment. Capital costs may only be recovered if the commission determines that the decision to abandon was reasonable, prudent, and in the public interest; however, these costs shall not include a rate of return. The commission may impose conditions it determines to be necessary to protect customers against unreasonable construction, development, or operational risk including, but not limited to, reporting, inspection, and the potential of requiring the utility to hire an independent third-party construction monitor to evaluate the prudence of the utility's actions and associated expense during the development of the project and construction of the reactor.

(2) The commission must not allow any cost recovery related to a small modular nuclear reactor outside of a rate case.

(F)(1) In addition to the small modular nuclear facility pilot program, electrical utilities and the South Carolina Public Service Authority are encouraged to evaluate the potential for deploying nuclear facilities at suitable sites within this State. A "suitable site" may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and brownfield sites, such as coal generation sites.

(2) When evaluating the potential of a nuclear facility, the applicant must provide notice and annual progress reports to the Public



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Utilities Review Committee, the Nuclear Advisory Council, and the commission. When available, the applicant must also provide cost estimates of the studies related to a potential nuclear facility to serve customers in South Carolina. This includes, but is not limited to, planning, licensing, and project development, the anticipated timeline of an early site permit, and current possibilities or barriers to co-ownership of such facilities, and available federal benefits which may defray costs of these facilities.

(3) In the event the commission finds cost estimates pursuant to item (2) are reasonable and prudent, the costs may be recoverable through rates, even if an application for a certificate of environmental compatibility and public convenience and necessity have not been filed. However, these costs shall not include a rate of return.

(G) Nothing in this section relieves an electrical utility or the South Carolina Public Service Authority of the burden of filing for a certificate pursuant to this article and obtaining appropriate approvals from the commission before commencing construction.

SECTION 17. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Article 3

Energy Infrastructure Projects

Section 58-37-100. As used in this article:

(1) "Agency" means any agency, department, board, commission, or political subdivision of this State. However, it does not include the Public Service Commission, except for Sections 58-37-110 and 58-37-120.

(2) "Application" means a written request made to an agency for grant of a permit or approval of an action of matter within the agency's jurisdiction pertaining to an energy infrastructure project.

(3) "Brownfield energy site" means an existing or former electrical generating site or other existing or former industrial site.

(4) "Energy corridor" means a corridor in which a utility or the South Carolina Public Service Authority has:

(a) transmission lines with a rated voltage of at least 110 kilovolts, including the substations, switchyards, and other appurtenant facilities associated with such lines; or

(b) high pressure natural gas transmission pipelines and the metering, compression stations, valve station, and other appurtenant facilities associated with such lines.

(5) "Energy corridor project" means an energy infrastructure project that involves the expansion of electric or natural gas delivery

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capacity in whole or in principal part within an existing energy corridor.

(6) “Energy infrastructure project” means the construction, placement, authorization, or removal of energy infrastructure including, but not limited to, electric transmission and generation assets, natural gas transmission assets, and all associated or appurtenant infrastructure and activities, including communications and distribution infrastructure.

(7) “Permit” means a permit, certificate, approval, registration, encroachment permit, right of way, or other form of authorization.

(8) “Person” means an individual, corporation, association, partnership, trust, agency, or the State of South Carolina.

Section 58-37-110. (A) Given the importance of sufficient, reliable, safe, and economical energy to the health, safety, and well-being of the citizens of South Carolina and to the state’s economic development and prosperity, the General Assembly finds that the prompt siting, permitting, and completion of energy infrastructure projects, energy corridor projects, and brownfield electrical generation projects are crucial to the welfare of the State.

(B) All state agencies are instructed to give expedited review of applications for energy infrastructure projects, to provide reasonable and constructive assistance to applicants to allow the applicants to comply with state law and regulatory requirements as expeditiously as possible, and to be guided by the policy goals established in subsection (A).

(C) All state agencies are instructed to give due weight to the reduction in the environmental, aesthetic, and socioeconomic impacts that are incurred to support the safe, reliable, and economic provision of energy to the people of South Carolina when energy infrastructure projects can be located in existing energy corridors or on brownfield energy sites, and shall consider the relative reductions in such impacts compared to greenfield projects in evaluating projects in existing energy corridors or on brownfield energy sites.

Section 58-37-120. (A) Any agency presented with an application for a permit for an energy infrastructure project shall issue a decision on the application no later than six months after the date the application is received by the agency. If the agency fails to take final action within six months of receipt of the application, the application shall be deemed approved, and the agency shall promptly issue documentation that the applicant may reasonably request establishing that the agency has granted the relief requested.

(B) Upon receipt of an application, the agency shall promptly review it for sufficiency and shall provide the applicant with a list of all deficiencies within thirty days of receipt. The identification of by the

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agency of deficiencies in the application shall not toll the six-month period for agency determination.

Section 58-37-130. The applicant or any person whose private rights are affected by an agency decision or action on an application for a permit for any energy infrastructure project may appeal that decision or action to the South Carolina Supreme Court. The Supreme Court shall hear these appeals as a direct appeal in accordance with the South Carolina Appellate Court Rules. The Court shall provide for an expedited briefing and hearing of the appeal, in preference to all other nonemergency matters on its docket, and decide such appeals on an expedited basis.

Section 58-37-140. The provisions of this article shall expire ten years after its effective date.

SECTION 18. Section 58-40-10(C) of the S.C. Code is amended to read:

(C) “Customer-generator” means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates or discharges electricity from a renewable energy resource, including an energy storage device configured to receive electrical charge solely from an onsite renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a)(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(ii) after June 1, 2024, not more than the lesser of five thousand kilowatts (5,000kW AC) or one hundred percent of contract demand for a nonresidential customer, provided the customer-generator is on a time-of-use rate schedule and any excess energy produced by the customer-generator is credited and reset at the end of each monthly period; or

(iii) more than five thousand kilowatts (5,000kW AC) if agreed to by the customer-generator and the electrical utility, provided that the electrical utility submits the agreement to the commission for consideration and approval if the commission finds the agreement to contain appropriate ratemaking provisions and is in the public interest; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

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(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

SECTION 19. Section 58-41-30 of the S.C. Code is amended to read:

Section 58-41-30. (A) The ability to utilize clean energy resources for electric power generation is important to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State.

(B) The commission shall be responsive to the clean energy needs of customers and the economic development and industry retention implications for the State when reviewing and approving voluntary clean energy programs. The commission shall consider updates to these voluntary renewable energy programs on an ongoing basis.

(C) Within one hundred and twenty days of the effective date of this chapter, ~~subject to subsection (F)~~, each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the commission, unless as of July 1, 2024, the electrical utility already has a voluntary renewable energy program that conforms with the requirements of this section on file with the commission. The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties shall have the right to participate in the proceeding. The commission ~~may~~must periodically hold additional proceedings to ~~update the program~~ evaluate whether updates to the programs are necessary. At a minimum, each electrical utility must submit to the commission a program for which the program shall provide that:

(1) the participating customer shall have the right to select the renewable energy facility and negotiate with the renewable energy supplier on the price to be paid by the participating customer for the energy, capacity, and clean energy environmental attributes of the

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renewable energy facility and the term of such agreement so long as such terms are consistent with the voluntary renewable program service agreement as approved by the commission;

(2) the renewable energy contract and the participating customer agreement must be of equal duration;

(3) in addition to paying a retail bill calculated pursuant to the rates and tariffs that otherwise would apply to the participating customer, reduced by the amount of the generation credit, a participating customer shall reimburse the electrical utility on a monthly basis for the amount paid by the electrical utility to the renewable energy supplier pursuant to the participating customer agreement and renewable energy contract, plus an administrative fee approved by the commission; and

(4) eligible customers must be allowed to bundle their demand under a single participating customer agreement and renewable energy contract and must be eligible annually to procure an amount of capacity as approved by the commission.

(D) The commission must approve voluntary renewable energy programs, in addition to those provided for in subsection (C), where the participating customer purchases clean energy environmental attributes of new or existing renewable energy facilities owned and operated and recovered on a cost-of-service basis by the electrical utility or otherwise supplies through the execution of agreements with third parties within the utility's balancing authority area. Voluntary renewable energy programs shall also facilitate behind-the-meter options for customers and access to renewable energy resource generation.

~~(B)~~(E) The commission may approve a program that provides for options that include, but are not limited to, both variable and fixed generation credit options.

~~(C)~~(F) The commission ~~may~~ shall limit the total portion of each electrical utility's voluntary renewable energy program that is eligible for the program at a level consistent with the public interest and shall provide standard terms and conditions for the participating customer agreement and the renewable energy contract, subject to commission review and approval.

~~(D)~~(G) A participating customer shall bear the burden of any reasonable costs associated with participating in a voluntary renewable energy program. ~~An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section. Purchased power costs incurred by an~~

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electrical utility as a result of subsection (C) shall be recovered in the electrical utility's fuel clause pursuant to Section 58-27-865.

~~(E)~~(H) A renewable energy facility may be located anywhere in the electrical utility's service territory within the utility's balancing authority.

~~(F) If the commission determines that an electrical utility has a voluntary renewable energy program on file with the commission as of the effective date of this chapter, that conforms with the requirements of this section, the utility is not required to make a new filing to meet the requirements of subsection (A).~~

SECTION 20. Section 58-41-10 of the S.C. Code is amended by adding:

(17) "Energy storage facilities" means any commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time including, but not limited to, electrochemical, thermal, and electromechanical technologies.

SECTION 21. Section 58-41-20 of the S.C. Code is amended to read:

Section 58-41-20. (A) As soon as is practicable after the effective date of this chapter, the commission shall open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within six months after the effective date of this chapter, and at least once every twenty-four months thereafter, the commission shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within such proceeding the commission shall approve one or more standard form power purchase agreements for use for qualifying small power production facilities not eligible for the standard offer. Such power purchase agreements shall contain provisions, including, but not limited to, provisions for force majeure, indemnification, choice of venue, and confidentiality provisions and other such terms, but shall not be determinative of price or length of the power purchase agreement. The commission may approve multiple form power purchase agreements to accommodate various generation technologies and other project-specific characteristics. This provision shall not restrict the right of parties to enter into power purchase agreements with terms that differ from the commission-approved form(s). Any decisions by the commission shall be just and reasonable to the ratepayers of the electrical utility, in the public interest, consistent

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with PURPA and the Federal Energy Regulatory Commission's implementing regulations and orders, and nondiscriminatory to small power producers; and shall strive to reduce the risk placed on the using and consuming public.

(1) Proceedings conducted pursuant to this section shall be separate from the electrical utilities' annual fuel cost proceedings conducted pursuant to Section 58-27-865.

(2) Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(B) In implementing this chapter, the commission shall treat small power producers on a fair and equal footing with electrical utility-owned resources by ensuring that:

(1) rates for the purchase of energy and capacity fully and accurately reflect the electrical utility's avoided costs;

(2) power purchase agreements, including terms and conditions, are commercially reasonable and consistent with regulations and orders promulgated by the Federal Energy Regulatory Commission implementing PURPA; and

(3) each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility or incurred by the electrical utility, including, but not limited to, energy, capacity, and ancillary services provided by or consumed by small power producers including those utilizing energy storage equipment. Avoided cost methodologies approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility.

(C) The avoided cost rates offered by an electrical utility to a small power producer not eligible for the standard offer must be calculated based on the avoided cost methodology most recently approved by the commission. In the event that a small power producer and an electrical utility are unable to mutually agree on an avoided cost rate, the small power producer shall have the right to have any disputed issues resolved by the commission in a formal complaint proceeding. The commission may require mediation prior to a formal complaint proceeding.

(D) A small power producer shall have the right to sell the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment

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to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

(E)(1) Electrical utilities shall file with the commission power purchase agreements entered into pursuant to PURPA, resulting from voluntary negotiation of contracts between an electrical utility and a small power producer not eligible for the standard offer.

(2) The commission is authorized to ~~open a generic docket for the purposes of creating programs~~ approve programs proposed by electrical utilities for the competitive procurement of energy and capacity from renewable energy facilities and, at the electrical utility's option, associated co-located energy storage by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

(3) In establishing standard offer and form contract power purchase agreements, the commission shall consider whether such power purchase agreements should prohibit any of the following:

(a) termination of the power purchase agreement, collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or

(b) the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including, but not limited to, a reduction in the contract



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price relative to the ten year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to subsection (A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

(2) Once an electrical utility has executed interconnection agreements and power purchase agreements with qualifying small power production facilities located in South Carolina with an aggregate nameplate capacity equal to twenty percent of the previous five-year average of the electrical utility's South Carolina retail peak load, that electrical utility shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with the terms, conditions, rates, and terms of length for contracts as determined by the commission in a separate docket or in a proceeding conducted pursuant to subsection (A). The commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state's policy of encouraging renewable energy.

(3) Any electrical utility administering a program for the competitive procurement of renewable energy resources and associated co-located energy storage facilities that have been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities within the electrical utility's balancing authority area in South Carolina may competitively procure new renewable energy capacity pursuant to that competitive solicitation process as a means of complying with the Public Utility Regulatory Policies Act. Further, the commission must establish a five-year term for energy purchased at administratively established avoided cost rates outside of competitive procurement of renewable energy resources, with the exception of voluntarily negotiated agreements to serve the public interest, for any electrical utility administering a program for the competitive procurement of renewable energy resources and associated

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co-located energy storage facilities that has been approved by the commission if the commission determines that doing so will incentivize participation in the competitive procurement process.

(G) Nothing in this section prohibits the commission from adopting various avoided cost methodologies or amending those methodologies in the public interest.

(H) Unless otherwise agreed to between the electrical utility and the small power producer, a power purchase agreement entered into pursuant to PURPA may not allow curtailment of qualifying facilities in any manner that is inconsistent with PURPA or implementing regulations and orders promulgated by the Federal Energy Regulatory Commission.

~~(I) The commission is authorized to employ, through contract or otherwise, third party consultants and experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the report are intended to be used by the commission along with all other evidence submitted during the proceeding to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility during the development of the report and whether there were any material information requests that were not adequately fulfilled by the~~

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~~electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. 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.~~

(I) Each electrical utility's avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission. The commission may approve any confidentiality protections necessary to allow for independent review and verification of the avoided cost filing.

SECTION 22. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-25. (A) Unless an electrical utility makes an application pursuant to subsection (F) or (G), electrical utilities may file for commission approval of a program for the competitive procurement of renewable energy facilities which may also include, at the utility's option, associated co-located energy storage facilities, also referred to as "eligible facilities", or purchase one-hundred percent of the output from such eligible facilities, including all energy, capacity, ancillary services, and environmental and renewable attributes. Eligible facilities may be located anywhere in the electrical utility's balancing authority area to meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan and associated filings. The commission may not grant approval unless the commission finds and determines that the electrical utility satisfied the requirements of this section and the proposed program is just and reasonable and in the best interests of the electrical utility's customers.

(B) An electrical utility's competitive procurement program filed pursuant to this section must describe the solicitation process, eligibility criteria, timelines, bid evaluation methodology, and identify whether resources procured are intended to also service customer-directed renewable energy procurement programs. The program must be designed to procure renewable energy facilities and at the utility's election, associated co-located energy storage resources, or the output of those facilities, subject to the following requirements:

(1) renewable energy facilities, and if applicable, energy storage resources, or their output, must be procured via a competitive solicitation process open to all market participants that meet minimum stated eligibility requirements;

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(2) the electrical utility shall issue public notification of its intention to issue a competitive solicitation to procure renewable energy facilities and associated co-located energy storage facilities, if applicable, at least ninety days prior to the release of the solicitation, including identifying the proposed target procurement volume, procurement process, and timeline for administering the solicitation;

(3) renewable energy facilities eligible to participate in competitive procurement are those that use renewable generation resources identified in Section 58-39-120(F), which must also satisfy that electrical utility's capacity, energy, or operational needs, as identified by the electrical utility, and take into account the required operating characteristics of the needed capacity;

(4) energy storage facilities, if included by the electrical utility in the solicitation, must be associated equipment located at the same site as the renewable energy facility;

(5) electrical utilities may seek to ensure that their procurement of eligible facilities results in a reasonable balance of ownership of eligible facilities between such utility, including its affiliates and unrelated market participants, and may offer self-developed proposals. However, if an electrical utility or its affiliate seek to participate in the procurement, the electrical utility's program must include an independent evaluator to evaluate all bids offered and to ensure they are fairly and competitively evaluated. For purposes of this section, "independent evaluator" means an independent third party retained by the electrical utility that has no ownership in the electrical utility or a market participant and has the skills and experience necessary to oversee the solicitation process and provide the utility with an independent evaluation of all proposals for ultimate selection. At the conclusion of the solicitation, the independent evaluator shall report to the commission on the openness and fairness of the bid evaluation process and certify that the selection of proposals adhered to the evaluation methodology and requirement of the program.

(C) An electrical utility must make the following publicly available at least forty-five days prior to each competitive solicitation:

(1) pro-forma contract to inform prospective market participants of the procurement terms and conditions for the output purchased by the electrical utility from eligible resources. The pro-forma contract must:

(a) provide for the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities owned and operated by third parties that commit to allow the procuring electrical utility rights to dispatch, operate, and control the solicited

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renewable energy facilities in the same manner as the electrical utility's own generating resources;

(b) include standardized and commercially reasonable requirements for contract performance security; and

(c) define limits and compensation for resource dispatch and curtailments.

In the event an electrical utility chooses to procure output from co-located storage, the pro-forma contract must also cover similar terms and conditions as specified herein for those eligible facilities.

(2) pro-forma agreements to govern the procurement of eligible facilities by the electrical utility from market participants;

(3) bid evaluation methodology that ensures all bids are treated equitably, including price and non-price evaluation criteria; and

(4) interconnection requirements, including specification of how bids without existing interconnection agreements will be treated for purposes of evaluation.

(D) After bids are submitted and evaluated, the electrical utility will elect the winning bids based upon the public evaluation methodology.

(E) An electrical utility shall file with the commission a public report summarizing the results of each competitive solicitation within thirty days of finalizing the contract with the winning bidder. The report must include, at a minimum, a summary of the bids received and an anonymized list of the project awards, including size, location, and average award price and tenor.

(F) Notwithstanding the requirements in subsections (B) and (C), the results of all other competitive procurement programs undertaken by an electrical utility within its balancing authority area outside of South Carolina that will serve customers in the electrical utility's balancing authority area within South Carolina and are open to equal participation by eligible facilities located within South Carolina may be approved by the commission if the commission determines such programs enable economic, reliable, and safe operation of the electricity grid in a manner consistent with the public interest. For purposes of this section, "public interest" shall also include the ability of customers to subscribe to customer programs which leverage the competitively procured solar and potential storage contemplated within this section. Any electrical utility that requests acceptance of a system-wide procurement pursuant to this section must demonstrate to the commission that the utility has adhered to subsection (D) as defined in that specific competitive procurement program and submit the post solicitation report to the commission, as required by subsection (E).

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(G) The commission may determine that a competitive procurement program within an electrical utility's balancing authority area outside of South Carolina that serves customers in the utility's area within South Carolina and is open to equal participation by eligible facilities located within South Carolina satisfies the requirements of this section.

(H) Electrical utilities are permitted to recover costs incurred pursuant to this section, including reasonable and prudent administrative costs to develop and propose procurements under this section, and if approved by the commission, the costs resulting from such procurements through rates established pursuant to Section 58-27-865 or otherwise through rates established pursuant to Section 58-27-870. If the commission denies an application made pursuant to subsection (F) or (G) of this section, and the utility continues with the procurement, then the utility must allocate all costs and benefits associated with the resources being procured away from South Carolina customers.

(I) An electrical utility administering a program for the competitive procurement of renewable energy resources and storage facilities that has been approved by the commission pursuant to Section 58-41-25 that is open to qualifying small power production facilities located in South Carolina may utilize such programs as means to satisfy its purchase obligations for avoidable capacity from qualifying small power production facilities under the Public Utility Regulatory Policies Act, consistent with Section 58-41-20(F)(3).

SECTION 23.A. Section 58-33-20 of the S.C. Code is amended by adding:

(10) The term "like facility" with reference to generation facilities and without limitation, includes a facility or facilities that are proposed to provide capacity on a site currently or previously used for siting electric generation that replaces the capacity of a facility or facilities that are being retired, downrated, mothballed, or dedicated to standby or emergency service at the same site, limited to facilities no more than 300 megawatts, so long as those new facilities will provide an amount of effective load-carrying capacity that in whole or in part will serve to replace the capacity to be lost as a result of retirement, and includes associated transmission facilities needed to deliver power from that facility to customers. A "like facility" with reference to transmission facilities, and without limitation, includes any facility that represents the rebuilding, reconductoring, paralleling, increasing voltage, adding circuits or otherwise reconfiguring of an existing transmission line or other transmission facilities including, without limitation, projects to increase the capacity of such facilities, provided such facilities are: (a)

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located materially within a utility right of way or corridor; (b) located materially within a new right of way or corridor; or (c) substantially located on the property of a customer, prospective customer, or the State.

B. Section 58-33-20(2)(a) of the S.C. Code is amended to read:

(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 or that requires a footprint of more than one hundred twenty-five acres of land.

SECTION 24. Article 3, Chapter 33, Title 58 of the S.C. Code is amended to read:

Article 3

Certification of Major Utility Facilities

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. Upon application for a determination by the Commission that a proposed utility facility constitutes a like facility replacement, the Commission must issue a written order approving or denying the application within sixty days of filing. If the Commission fails to issue a written order within sixty days of the application’s filing, the application shall be deemed as approved. 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

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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;

(d) which is a hydroelectric generating facility over which the ~~Federal Power Commission~~Federal Energy Regulatory Commission has licensing jurisdiction; or

(e) which is a transmission line or associated electrical transmission facilities constructed by the South Carolina Public Service Authority; (i) for which construction either is commenced within one year after January 1, 2022; or (ii) which is necessary to maintain system reliability in connection with the closure of the Winyah Generating Station, provided that such transmission is not for generation subject to this chapter; or (iii) which is necessary to serve an identified commercial or industrial customer to promote economic development or industry retention as determined by the South Carolina Public Service Authority and agreed to by the Office of Regulatory Staff where such agreement is documented in a letter by the Office of Regulatory Staff to the Public Utilities Review Committee and the commission.

(5) Any person intending to construct a major utility facility excluded from this chapter pursuant to subsection (4) of this section or Section 58-33-20(10) 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.



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(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, No permission from the Commission shall be required to proceed with initial clearing, excavation, dredging, and initial construction of any facility which constitutes a component of the preferred generation plan in an integrated resource plan or update approved by the Commission pursuant to Chapter 37 of this title, or any like facility; provided~~ 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)(a) Notwithstanding the provisions of item (7), and not limiting the provisions above, a person may not commence construction of a major utility facility for generation in the State of South Carolina without first having made a demonstration. In seeking a certificate, the applicant must provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost, reliability, schedule constraints, fuel cost and availability, transmission constraints and costs, ancillary services capabilities, current and reasonably expected future environmental costs and restrictions, that the facility supports system efficiency and reliability in light of those considerations, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. The commission is authorized to adopt rules for such evaluation of other generation options.~~

~~(b) The commission may, upon a showing of a need, require a commission approved process that includes Office of Regulatory Staff may provide to the commission a report that includes any or all of the following:~~

~~(i) the an assessment of an unbiased independent evaluator retained by the Office of Regulatory Staff as to reasonableness of any certificate sought under this section for new generation;~~

~~(ii) a report from the independent evaluator to the commission regarding the transparency, completeness, and integrity of bidding processes, if any;~~

~~(iii) an assessment of whether there was a reasonable period for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade~~

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secrets that could hamper future negotiations; however, the independent evaluator may access all such information;

~~\_\_\_\_\_ (iv) independent evaluator access and review of final bid evaluation criteria and pricing information for any and all projects to be evaluated in comparison to the request for proposal bids received;~~

~~\_\_\_\_\_ (v) access through discovery, subject to appropriate confidentiality, attorney-client privilege or trade secret restrictions, for parties to this proceeding to documents developed in preparing the certificate of public convenience and necessity application;~~

~~(vi) (iv) a demonstration that an assessment of whether the facility is consistent with an integrated resource plan or update approved by previously filed with the commission or is otherwise justified by generation planning modeling comparable to that filed as part of the utility's integrated resource plan but updated with current data concerning system loads, fuel prices, environmental regulations, location-specific transmission costs, updated construction costs and updated construction timelines, updated costs of gas supply facilities, if any, and other relevant costs, schedules or inputs establishing that the facility in question supports system economy and reliability; and~~

~~(vii) (v) an assessment detailing the treatment of utility affiliates in the same manner as compared to nonaffiliates participating in the request for proposal process, if any.~~

\_\_\_\_\_ (9) The applicant may, but must not be required to, issue requests for proposals or otherwise conduct market procurement activities in support of the showings required pursuant to this chapter.

\_\_\_\_\_ (10) Notwithstanding any other provision in this section, an electrical utility serving customers in this state may seek a certificate of public convenience and necessity when building a major utility facility, as defined in Section 58-33-20(2), in another state but within the electrical utility's balancing area serving customers in South Carolina. In such a case, the provisions of Sections 58-33-120, 58-33-140, and 58-33-160(1)(b), (c), and (e) shall not apply, but all other requirements of this section affecting customers in this state shall apply. In addition:

\_\_\_\_\_ (a) an applicant for a certificate shall file an application with the commission in such form as the commission may prescribe. The application must contain the following information:

\_\_\_\_\_ (i) a description of the location and of the major utility facility to be built;

\_\_\_\_\_ (ii) a summary of any studies which have been

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made by or for the applicant of the environmental impact of the major utility facility;

\_\_\_\_\_ (iii) a statement explaining the need for the major utility facility;

\_\_\_\_\_ (iv) any other information the applicant may consider relevant or as the commission may by regulation require. A copy of the report referred to in item (8)(b) must be filed with the commission, if ordered by the commission, and shall be available for public information.

\_\_\_\_\_ (b) The parties to a proceeding for a certificate pursuant to this section shall include:

\_\_\_\_\_ (i) the applicant;

\_\_\_\_\_ (ii) the Office of Regulatory Staff; and

\_\_\_\_\_ (iii) intervenors with standing as approved by the commission.

\_\_\_\_\_ (c) If the commission denies an application made pursuant to this section and the utility continues to build such major utility facility, the utility must allocate all costs and benefits associated with the major utility facility away from the utility's South Carolina customers.

Section 58-33-120. (1) An applicant for a certificate shall file an application with the commission, in such form as the commission may prescribe. The application must contain the following information:

(a) a description of the location and of the major utility facility to be built;

(b) a summary of any studies which have been made by or for applicant of the environmental impact of the facility;

(c) a statement explaining the need for the facility;  
and

(d) any other information as the applicant may consider relevant or as the commission may by regulation ~~or order~~ require. A copy of the study referred to in item (b) above shall be filed with the commission, if ordered, and shall be available for public information.

(2) Each application shall be accompanied by proof of service of a copy of the application on the Office of Regulatory Staff, the chief executive officer of each municipality, and the head of each state and local government agency, charged with the duty of protecting the environment or of planning land use, in the area in the county in which any portion of the facility is to be located. The copy of the

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application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(3) Each application also must be accompanied by proof that public notice was given to persons residing in the municipalities entitled to receive notice under subsection (2) of this section, by the publication of a summary of the application, and the date on or about which it is to be filed, in newspapers of general circulation as will serve substantially to inform such persons of the application.

(4) Inadvertent failure of service on, or notice to, any of the municipalities, government agencies, or persons identified in subsections (2) and (3) of this section may be cured pursuant to orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies thereof, or both, upon such other persons, and file proof thereof, as the commission may deem appropriate.

(5) An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe. Notice of the application shall be given as set forth in subsections (2) and (3) of this section.

Section 58-33-130. (1) Upon the receipt of an application complying with Section 58-33-120, 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~~ complete the hearing and issue an order on the merits within one hundred eighty days of receipt of the application.

(2) The testimony presented at the hearing may be presented in writing or orally, - provided that the Commission may make rules designed to exclude repetitive, redundant or irrelevant testimony; however, all expert testimony must be prefiled with the Commission, with responsive expert testimony of non-applicants being received with enough time for the applicant to meaningfully respond, and in no case would expert testimony be filed less than twenty days before the hearing.

~~(2)~~(3) On an application for an amendment of a certificate, the Commission shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any significant increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility; provided, that the Public Service Commission shall forward a copy of the application to all parties

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upon the filing of an application.

Section 58-33-140. (1) The parties to a certification proceeding shall include:

(a) the applicant;

(b) the Office of Regulatory Staff, the Department of Health and Environmental Control, the Department of Natural Resources, and the Department of Parks, Recreation and Tourism;

(c) each municipality and government agency entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120 if it has filed with the commission a notice of intervention as a party within thirty days after the date it was served with a copy of the application; and

(d) any person residing in a municipality entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120, any domestic nonprofit organization, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interest, to represent commercial and industrial groups, or to promote the orderly development of the area in which the facility is to be located; or any other person, if such a person or organization has petitioned the commission for leave to intervene as a party, within thirty days after the date given in the published notice as the date for filing the application, and if the petition has been granted by the commission for good cause shown.

(2) Any person may make a limited appearance in the sixty days after the date given in the published notice as the date for filing the application. No person making a limited appearance shall be a party or shall have the right to present oral testimony or argument or cross-examine witnesses.

(3) The commission may, in extraordinary circumstances for good cause shown, and giving consideration to the need for timely start of construction of the facility, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency, person, or organization which is identified in paragraphs (b) or (c) of subsection (1) of this section, but which failed to file a timely notice of intervention or petition for leave to intervene, as the case may be.

Section 58-33-150. A record shall be made of ~~the~~any hearing and of all testimony taken and the cross-examination thereon. ~~Upon request of a party, either before or after the decision, a State agency which proposes to or does require a condition to be included in the~~

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~~certificate as provided for in Section 58-33-160 shall furnish for the record all factual findings, documents, studies, rules, regulations, standards, or other documentation, supporting the condition.~~ The Commission may provide for the consolidation of the representation of parties having similar interests.

Section 58-33-160. (1) 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 of the construction, operation or maintenance of the major utility facility as the Commission may deem appropriate; such conditions shall be as determined by the applicable State agency having jurisdiction or authority under statutes, rules, regulations or standards promulgated thereunder, and the conditions shall become a part of the certificate. The Commission ~~may not~~must grant a certificate for the construction, operation and maintenance of a major utility facility, either as proposed or as modified by the Commission, ~~unless it shall find and determine~~if it finds and determines that the applicant has shown:

- (a) The basis of the need for the facility.
- (b) The nature of the probable environmental impact.
- (c) That the impact of the facility upon the

environment is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

(d) That the facilities will serve the interests of system economy and reliability, and in the case of generating facilities, will do so considering reasonably available alternatives and their associated costs, risks, and operating attributes.

(e) That there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations issued thereunder, including any allowable variance provisions therein, except that the Commission may refuse to apply any local law or local regulation if it finds that, as applied to the proposed facility, such law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

(f) That public convenience and necessity require the construction of the facility.

(2) If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon such modification, provided that the municipalities

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and persons residing therein affected by the modification shall have been given reasonable notice.

(3) A copy of the decision and any ~~opinion order~~ shall be served by the Commission upon each party.

Section 58-33-170. In rendering a decision on an application for a certificate, the Commission shall issue an ~~opinion order~~ stating its reasons for the action taken. If the Commission has found that any regional or local law or regulation, which would be otherwise applicable, is unreasonably restrictive pursuant to paragraph (e) of subsection (1) of Section 58-33-160, it shall state in its ~~opinion order~~ the reasons therefor.

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

(b)(2) 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)(B) Available long-term power supply alternatives may include, but are 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)(C) The commission shall consider any previous analysis performed pursuant to 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,

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pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service.

~~(B)(D)~~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) The Public Service Authority may not ~~enter into a contract for the acquisition of~~ acquire a major utility facility 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.

(B)(1) In acting upon any petition by the Public Service Authority pursuant to this section, the Public Service Authority must prove by a preponderance of the evidence that the proposed transaction constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives. The commission shall consider any previous analysis performed pursuant to 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 be 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.

(C) 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.

(D) Upon the receipt of an application, the commission



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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.

(E) 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.

(F)(1) 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.

(2) The commission also may require compliance with any provision of Article 3, Chapter 33, Title 58 that the commission determines necessary to grant approval.

Section 58-33-190. (1) The Public Service Authority may not enter into a contract for the purchase of power with a duration longer than ten 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. This section does not apply to purchases of renewable power through a commission approved competitive procurement process.

(2) The commission shall consider any previous analysis performed pursuant to 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.

(3) The commission may not grant approval unless it shall find and determine that the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority.

SECTION 25. Section 58-37-40 of the S.C. Code is amended to read:

Section 58-37-40. (A) Electrical utilities, electric cooperatives, municipally owned electric utilities, and the South

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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 with one hundred thousand or more customer accounts and the Public Service Authority 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, electric utilities with less than one hundred thousand customer accounts, 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, electric utility with less than one hundred thousand customer accounts, 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. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy-five percent renewable energy or because it purchases wholesale load balancing generation services, then 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

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(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 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 commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 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

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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.

(c) The Authority's integrated resource plan must provide the information required in Section 58-37-40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, 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, including Central Electric Power Cooperative, 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 of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal by the year 2050.

(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

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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; and

(j) a report addressing updates to the utility's transmission plan under the utility's open-access transmission tariff pursuant to the federal jurisdiction planning process. In this report, the utility shall describe if applicable planned transmission improvements may enable specific siting of new resources or provide expected and planned impacts to other resource interconnection constraints or operations of the systems. The utility shall also describe how it evaluated alternate transmission technologies when developing solutions for identified transmission needs for interconnecting resources.

(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 subject to subsection (A)(1) 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 procedural schedule shall include dates for completion of each phase of discovery, including discovery related to the integrated resource plan as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, and rebuttal testimony of the applicant. Except upon showing exceptional circumstances, all discovery shall be served in time

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to allow its completion, but not less than ten days prior to the hearing. 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 the 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 or the Public Service Authority'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. In reviewing an integrated resource plan, the commission shall~~ give due consideration as to the resources and actions necessary for the utility to fulfill compliance and reliability obligations pursuant to the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, the Southeastern Electric Reliability Council, and the Nuclear Regulatory Commission requirements, as well as environmental requirements applicable to resources serving customers in this state. Matters related to the scope and sufficiency of an electrical utility's demand-side plans and activities shall be considered exclusively in proceedings conducted pursuant to Section 58-37-20. In reviewing an integrated resource plan, the commission shall focus its review on the decisions which the applicant must make in the near term based on the triennial integrated resource plan under consideration at the time and shall approve a plan if it finds that the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, including the need for electric capacity and energy required to support economic development and industry retention in the electrical utility's or the Public Service Authority's service territory and to meet applicable planning reserve margins;

(b) consumer affordability and least reasonable cost, considering the resources needed to support economic development

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and industry retention, and other risks and benefits;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply; ~~and~~

(g) the efficiencies and optimum plans for any electrical utility system spanning state lines located within the electrical utility's or the Public Service Authority's balancing authority area; and

(h) other foreseeable conditions that the commission determines to be for the public's interest.

(3) In modifying or rejecting an electrical utility's or the Public Service Authority's integrated resource plan, the commission shall only require revisions that are reasonably anticipated to materially change resource procurement decisions to be made on the basis of the integrated resource plan under review. If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the 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 the Public Service Authority's revised filing, the Office of Regulatory Staff shall review the electrical utility's or the 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. An 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 and the Public Service Authority shall each submit annual updates to its integrated resource

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plan to the commission. An annual update must include an update to the electric utility's or the 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 electrical utility's or the Public Service Authority's annual update and submit a report within ninety days 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 the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest within sixty days from the submittal of the Office of Regulatory Staff's report.

(E) Intervenors shall bear their own costs of participating in proceedings before the commission.

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

SECTION 26. Section 58-3-260 of the S.C. Code is amended to read:

Section 58-3-260. (A) For purposes of this section:

(1) "Proceeding" means a contested case, generic proceeding, or other matter to be adjudicated, decided, or arbitrated by the commission.

(2) "Person" means a party to a proceeding pending before the commission, a member of the Office of Regulatory Staff, a representative of a party to a proceeding pending before the commission, individuals, corporations, partnerships, limited liability companies, elected officials of state government, and other public and elected officials.

(3) "Communication" means the transmitting of information by any mode including, but not limited to, oral, written, or electronic.

(4) "Allowable ex parte communication briefing" means any communication that is conducted pursuant to the procedure outlined in subsection (C)(6) of this section.



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(5) “Communication of supplemental legal citation” means the submission, subsequent to the submission of post-hearing briefs or proposed orders in a proceeding, of statutes, regulations, judicial or administrative decisions that are enacted, promulgated, or determined after the submission of post-hearing briefs or proposed orders.

(6) “Issue” means a specific request for relief or for other action from the commission in a pending or anticipated matter, legal or regulatory arguments, and policy considerations. “Issue” does not include:

(a) general information concerning the operations, administration, planning, projects, customer service, storms or storm response, accidents, outages, or investments of an entity regulated by the commission that is not confidential and proprietary and is available to the public; or

(b) any confidential information that affects energy security, such as physical or cybersecurity matters, provided that such information is also provided to the Executive Director of the Office of Regulatory Staff.

Any communication pursuant to subitems (a) or (b) that does not contain a specific request for relief or for other action from the commission in a pending matter or anticipated matter and is provided to the commission must be in writing and must be posted on the commission’s website with any confidential information redacted.

(B)(1) Except as otherwise provided herein or unless required for the disposition of ex parte matters specifically authorized by law, a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication.

(2) Commissioners must limit their consideration of matters before them to the record presented by the parties and may not rely on material not presented in the record by the parties.

(C) The following communications are exempt from the prohibitions of subsection (B) of this section:

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(1) a communication concerning compliance with procedural requirements if the procedural matter is not an area of controversy in a proceeding;

(2) statements made by a commission employee who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding, where the statements are limited to providing publicly available information about pending proceedings;

(3) inquiries relating solely to the status of a proceeding, unless the inquiry: (a) states or implies a view as to the merits or outcome of the proceeding; (b) states or implies a preference for a particular party or which states why timing is important to a particular party; (c) indicates a view as to the date by which a proceeding should be resolved; or (d) is otherwise intended to address the merits or outcome or to influence the timing of a proceeding;

(4) a communication made by or to commission employees that concerns judicial review of a matter that has been decided by the commission and is no longer within the commission's jurisdiction; however, if the matter is remanded to the commission for further action, the provisions of this section shall apply during the period of the remand;

(5) where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized provided:

(a) the commissioner, hearing officer, or commission employee reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(b) the commissioner, hearing officer, or commission employee makes provision promptly to notify all other parties of the substance of the ex parte communication and, where possible, allows an opportunity to respond;

(6)(a) subject to the provisions of Chapter 4 of Title 30, communications, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding for the purposes of an allowable ex parte communication briefing if:

~~(i) the Executive Director of the Office of Regulatory Staff or his designee attends the briefing and files a written certification, within seventy two hours of the briefing, attaching copies of all statements and all other matters filed by all persons pursuant to~~

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~~subsubitems (ii), (iii), and (iv) of this subsection, with the chief clerk of the commission that such briefing was conducted in compliance with the provisions of this section and that each party, person, commissioner, or commission employee present has complied with the reporting and certification requirements of subsubitems (ii), (iii), and (iv); and within twenty four hours of the submission by the executive director, the commission posts on its web site the written certification, statements, and other matters filed by the executive director;~~

~~\_\_\_\_\_ (ii) each party, person, commissioner, and commission employee present files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing accurately summarizing the discussions in full and attaching copies of any written materials utilized, referenced, or distributed;~~

~~\_\_\_\_\_ (iii) each party, person, commissioner, and commission employee present, within forty eight hours of the briefing, files a certification with the Executive Director of the Office of Regulatory Staff that~~

~~\_\_\_\_\_ (i) in the course of such briefing, no commissioner or commission employee shall make any~~no~~ commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding, was requested by any person or party nor shall any person request any commitment, predetermination, or prediction ~~wasto be~~ given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue;~~

~~\_\_\_\_\_ (ii) the Executive Director of the Office of Regulatory Staff or his designee must attend the briefing and certify that the commissioners and commission employees complied with the provisions in subitem (i);~~

~~(iv)(iii) each commissioner or commission employee present at the allowable ex parte communication briefing grants to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection (C)(6) of this section and files a written,~~

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certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing stating that the commissioner or commission employee will comply with this provision;

~~(v)(iv)~~ the commission ~~posts~~ must post on its web site, at least five business days prior to the proposed briefing, a notice of each request for an allowable ex parte communication briefing that includes the date and time of the proposed briefing, the name of the person or party who requested the briefing, the name of each commissioner and commission employee whom the person or party has requested to brief, and the subject matter to be discussed at the briefing;

(v) the commission must post on its web site within three business days after the briefing, all nonconfidential materials and documents provided to the commission as part of the ex parte briefing and a statement signed by the chief clerk of the commission that the provisions of this subsection have been followed, including the justification for actions taken to preserve the confidentiality of any confidential information provided to the commission;

(vi) the person or party initially seeking the briefing ~~requests~~ must request the briefing with sufficient notice, as required in subsubitem ~~(v)(iv)~~, to allow the initial briefing to be held at least twenty business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and the initial briefing must be held at least twenty business days prior to the hearing in the proceeding; and

(vii) any person or party desiring to have a briefing on the same or similar matter as provided for in subsubitem (vi) shall be entitled to request ~~requests~~ a briefing so long as the request is made with sufficient time for notice, as required in subsubitem ~~(v)(iv)~~, to allow the briefing to be held at least ten business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and any such briefing must be held at least ten business days prior to the hearing in the proceeding;

~~(b) any person or party may object to the attendance of the Executive Director of the Office of Regulatory Staff at an allowable ex parte communication briefing on the grounds of bias or a conflict of interest on the part of the executive director. Any such objection must be made in writing and must be filed with the executive director no later than twenty-four hours prior to the scheduled briefing. If the objecting person or party and the executive director agree upon a~~

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~~neutral person, that person shall serve in the executive director's stead and shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings. If the objecting person or party and the executive director cannot agree upon a neutral person, the objecting person or party shall petition the Administrative Law Court for the appointment of a neutral person to serve in the executive director's stead, and the petition shall be given priority over all other matters within the jurisdiction of the Administrative Law Court. In the petition, the objecting party shall set forth the specific grounds supporting the objecting person's or party's allegation of bias or conflict on the part of the executive director and shall generally describe the matters to be discussed at the briefing. It shall not be sufficient grounds that the executive director is or is likely to be a party to a proceeding. The executive director shall be given an opportunity to respond. Part of the executive director's response shall include recommendations as to the experience required of the person to act in his stead. Upon a showing of actual bias or conflict of interest, the administrative law judge shall designate a person to act in the executive director's stead and that person shall comply with the reporting and certification requirements of the executive director contained in subsubitem (i) and the executive director shall comply with the requirements contained in subsubitems (ii) and (iii). Such person must have the expertise to act in the executive director's stead. The decision of the administrative law judge shall be considered interlocutory and not immediately appealable and may be appealed with the final order of the commission. The costs of such person's services shall be charged to the party requesting the briefing and may be an allowable cost of the proceedings;~~

~~\_\_\_\_\_ (c) should the Executive Director of the Office of Regulatory Staff desire to conduct an allowable ex parte communication briefing, the chief clerk of the commission shall appoint a neutral person who shall serve in the executive director's stead and that person shall comply with the reporting and certification requirements of the Executive Director of the Office of Regulatory Staff contained in subsubitem (i). The Executive Director of the Office of Regulatory Staff shall comply with the requirements contained in subsubitems (ii) and (iii);~~

~~\_\_\_\_\_ (d)(b) nothing in subsection (C)(6) of this section~~

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requires any commissioner or commission employee to grant a request for an allowable ex parte communication briefing, except as provided in subsection (C)(6)(a)(~~iv~~)(iii) of this section;

(7) a communication of supplemental legal citation if the party files copies of such documents, without comment or argument, with the chief clerk of the commission and simultaneously provides copies to all parties of record;

(8) subject to the provisions of Chapter 4 of Title 30, communications between and among commissioners regarding matters pending before the commission; provided, further, that any commissioner, hearing officer, or commission employee may receive aid from commission employees if the commission employees providing aid do not:

(a) receive ex parte communications of a type that the commissioner, hearing officer, or commission employee would be prohibited from receiving; or

(b) furnish, augment, diminish, or modify the evidence in the record.

(D) If before serving in a proceeding, a commissioner, hearing officer, or commission employee receives an ex parte communication of a type that may not properly be received while serving, the commissioner, hearing officer, or commission employee must disclose the communication in the following manner: a commissioner, hearing officer, or a commission employee who receives an ex parte communication in violation of this section must promptly after receipt of the communication or, in the case of a communication prior to a filing, as soon as it is known to relate to a filing, place on the record of the matter all written and electronic communications received, all written and electronic responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner, hearing officer, or commission employee, as appropriate, received an ex parte communication and must advise all parties that these matters have been placed on the record. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. Parties affected by a violation may agree to a resolution of any claim regarding such violation, including the waiver of a hearing and the waiver of the obligation to report violations under subsection (I) of this section.

(E) Any person who makes an inadvertent ex parte

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communication must, as soon as it is known to relate to an issue in a proceeding, disclose the communication by placing on the record of the matter the communication made, if written or electronic, or a memorandum stating the substance of an inadvertent oral communication, and the identity of each person to whom the inadvertent ex parte communication was made or given. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. If no party rebuts the inadvertence of the ex parte communication within ten days after notice of the ex parte communication, the ex parte communication shall be presumed inadvertent. Parties affected by a violation may agree to a resolution of any claim regarding such violation, and the provisions of subsection (J) of this section shall not apply.

(F) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a commissioner, hearing officer, or commission employee who receives the communication may be disqualified by the commission, and the portions of the record pertaining to the communication may be sealed by protective order.

(G) Nothing in this section alters or amends Section 1-23-320(i).

(H) Nothing in this section prevents a commissioner, hearing officer, or commission employee from:

(1) attending educational seminars sponsored by state, regional, or national organizations and seminars not affiliated with any utility regulated by the commission; however, the provisions of this section shall apply to any communications that take place outside any formal sessions of any seminars or group presentations; or

(2) conducting a site visit of a utility facility under construction or attending educational tours of utility plants or other facilities provided:

(a) the Executive Director of the Office of Regulatory Staff or his designee also attends the site visit or educational tour;

(b) a summary of the discussion is produced and posted on the commission's website, along with copies of any written materials utilized, referenced, or distributed; and

(c) each party, person, commission, and commission employee who participated in the site visit or educational tour, within forty-eight hours of the site visit or educational tour, files a

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certification with the Executive Director of the Office of Regulatory Staff that no commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party, nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue.

(I) Subject to any privilege under Rule 501 of the South Carolina Rules of Evidence, any commissioner, hearing officer, commission employee, party, or any other person must report any wilful violation of this section on the part of a commissioner, hearing officer, or commission employee to the review committee.

(J) Any commissioner, hearing officer, commission employee, or person who wilfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars or imprisoned for not more than six months. If a commissioner wilfully communicates with any party or person or if any person or party wilfully communicates with a commissioner regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten business days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the commissioner shall be removed from office. If a hearing officer or commission employee wilfully communicates with any party or person or any party or person wilfully communicates with a hearing officer or commission employee regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the hearing officer or commission employee shall be terminated from employment by the commission. For purposes of this section: (1) "wilful" means an act done voluntarily and intentionally with the specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or disregard the law, and (2) a violation of the provisions of this



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section must be proved by clear and convincing evidence before a commissioner, hearing officer, or commission employee can be removed from office or terminated from employment.

SECTION 27. Section 58-3-270(E) of the S.C. Code is amended to read:

(E) The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court may issue an order tolling any deadlines imposed by any state statute for a decision by the commission on the proceeding that is the subject of the ex parte communication complaint but only to the extent that the allegations of the complaint are verified and if found to be true would indicate that the proceeding was prejudiced to the extent that the commission is unable to consider the matter in the proceeding impartially. The administrative law judge assigned to the ex parte communication complaint proceeding by the Administrative Law Court must conduct a hearing and must issue a decision within sixty days after the complaint is filed.

SECTION 28. The General Assembly hereby finds and declares that:

(1) the economic and financial well-being of South Carolina and its citizens depends upon continued economic development and industry retention and opportunities for job attraction and retention; and

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

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

(4) electrical utilities are critical economic development and industry retention partners for South Carolina by offering affordable power that has helped to attract jobs and associated development.

Title 58 of the S.C. Code is amended by adding:

CHAPTER 43

Economic Development Rates

Section 58-43-10. Unless otherwise specified, for purposes of this chapter:

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(1) “Commission” means the Public Service Commission.

(2) “Contract” has the same meaning as the term is used in Section 58-27-980.

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

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

(5) “Qualifying customer” means either:

(a) an existing commercial or industrial customer with a combined firm and interruptible contract demand greater than 20 megawatts that agrees to a new or extended electric service contract with a term of five years or more; or

(b) a commercial or industrial customer that agrees to locate its operations in South Carolina or expands its existing establishment, and such location or expansion results in the minimum of:

(i) 500 kilowatts at one point of delivery;

(ii) fifty new employees; and

(iii) capital investment for \$400,000 following the electrical utility’s approval for service.

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

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

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

(a) 50 megawatts at one point of delivery;

(b) 500 new employees;

(c) capital investment of \$100,000,000 following the electrical utility’s approval for service; and

(d) who is designated by the South Carolina Department of Commerce as a business which will bring substantial benefit to the economy of South Carolina and its citizens, such that it is in the public interest to have such transformational customer located in this State.

Section 58-43-20. (A) When considering whether the rates, terms, and conditions negotiated with economic development prospects are just

and reasonable, the commission shall give full weight and consideration to the economic development benefits to the electrical utility's customers that result from prospective commercial or industrial entities locating or expanding their activities in South Carolina.

(B) Notwithstanding any other provision of law, an electrical utility may provide the South Carolina Department of Commerce or a prospective qualifying customer or transformational customer with a rate proposal containing terms and conditions to incentivize the prospective customer to make capital investments and employ additional workforce in the electrical utility's service territory. The rate proposal initially provided by an electrical utility may differ from the final contract, rate, terms, and conditions with the qualifying customer or transformational customer.

(C) An electrical utility may offer special rates, terms, and conditions to a qualifying customer or transformational customer, including rates that are lower than the rates that the customer otherwise would be charged. The agreement with the customer must be for a term not exceeding ten years and the electrical utility may offer the customer interruptible and real-time pricing options and riders for other clean energy attributes which may support the qualifying customer's or transformational customer's needs. However, rates for qualifying customers may not be lower than the electrical utility's marginal cost of providing service to the customer and rates for transformational customers may not be lower than twenty-five percent less than the electrical utility's marginal cost of providing service to the customer.

(D) Rates, terms, and conditions negotiated with qualifying and transformational customers shall be deemed just and reasonable if:

- (1) for qualifying customers, the terms of this section are met;
- (2) for transformational customers, the commission determines

that:

(a) the economic development rate offered significantly impacts the customer's decision to locate or expand in South Carolina;

(b) the financial value realized by the electrical utility's system from the transformational customer being on the electrical utility's system for ten years is greater than or equal to the financial value of the rate incentive given to the transformational customer;

(c) measures have been taken to avoid or reduce cross-customer class subsidization; and

(d) the consequences of offering the economic development rate are beneficial to the system as a whole considering all customer classes.

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The commission must either approve or deny an application pursuant to this section within sixty days.

(E) Nothing in this chapter shall otherwise restrict the commission's authority to regulate rates and charges or review contracts entered into pursuant to this section or to otherwise supervise the operations of electrical utilities.

(F) The construction of a proposed renewable energy facility by or on behalf of a qualifying customer to support electric power generation at its location must comply with federal, state, and local laws and ordinances.

(G) Consistent with federal, state, and local laws and ordinances, the electrical utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying or transformational customer to support electrical power generation at its location where high-quality and reliable electric service are not adversely impacted.

(H) In the event a qualifying customer or transformational customer leaves this State or terminates its operations in this State during the ten-year contract period, such customer must reimburse the electrical utility and its customers the difference between standard rates and the rates paid during the term of the agreement between the electrical utility and its customers.

(I) For facilities designated as high priority sites by the South Carolina Department of Commerce, an electrical utility may enter into agreements to provide energy infrastructure to such sites if the South Carolina Department of Commerce determines it will increase the probability of attracting transformational customers to this State. Costs of such infrastructure shall be accounted for and recorded as an element of rate base for inclusion in general rates by the electrical utility provided the commission finds such costs are reasonable and prudent and shall not include a rate of return until the facilities are placed into service for a customer.

(J) An electrical utility shall not be required to adjust its cost of service in a rate proceeding as a result of a rate, agreement, or infrastructure provided pursuant to this section in any matter that would impute revenue at a level higher than received by the electrical utility from a qualifying customer or transformational customer or would otherwise reduce the electrical utility's revenue as a result of entering into contracts with qualifying customers or transformational customers pursuant to this section.

(K) If an electrical utility offers special rates, terms, and conditions

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to a qualifying customer or a transformational customer, any electrical utility in South Carolina may also offer all directly competing existing customers in its service territory in this State with similar special rates, terms, and conditions at the time the agreement is entered into with the qualifying customer or transformational customer to the extent the directly competing existing customer is able to substantiate its status as a directly competing existing customer. For purposes of this section, customers are “directly competing” if they make the same end-product, or offer the same service, for the same general group of customers. Customers that only produce component parts of the same end-product are not directly competing customers.

SECTION 29. Sections 58-33-310 and 58-33-320 of the S.C. Code are amended to read:

Section 58-33-310. Any party may appeal, in accordance with Section 1-23-380, from all or any portion of any final order or decision of the commission, including conditions of the certificate required by a state agency under Section 58-33-160 as provided by Section 58-27-2310. ~~Any appeals may be called up for trial out of their order by either party.~~ Any final order on the merits issued pursuant to this chapter shall be immediately appealable to the Supreme Court of South Carolina, without petition for rehearing or reconsideration. The Supreme Court shall provide for expedited briefing and hearing of the appeal in preference to all other nonemergency matters. The commission must not be a party to an appeal.

Section 58-33-320. Except as expressly set forth in Section 58-33-310, no court of this State shall have jurisdiction to hear or determine any issue, case, or controversy concerning any matter which was or could have been determined in a proceeding before the commission under this chapter or to stop or delay the construction, operation, or maintenance of a major utility facility, except to enforce compliance with this chapter or the provisions of a certificate issued hereunder, and any such action shall be brought only by the Office of Regulatory Staff. Provided, however, that subject to Section 58-33-175, nothing herein contained shall be construed to abrogate or suspend the right of any individual or corporation not a party to maintain any action which he might otherwise have been entitled.

SECTION 30. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-160. (A)(1) The Office of Regulatory Staff must conduct a study to evaluate the potential costs and benefits of the various administrator models for energy efficiency programs and other

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demand-side management programs funded by, or potentially funded by, electrical utilities in this State. This study must be conducted on each electrical utility in this State. For purposes of this section, administrator models for energy efficiency programs shall include the following models: utility administrator, state or government agency administrator, an independent third-party administrator, and a hybrid administrator.

(2) For purposes of this section only, “electrical utility” means an investor-owned electrical utility that serves more than 100,000 customers in this State.

(B) This study must consider which administrator model would most meaningfully improve programs offered by the electrical utility.

(C) The study must also evaluate which administrator model offers the best opportunities to increase cost and energy savings, improve the quality of services rendered, reduce ratepayer costs, or more effectively serve low-income customers, within a program portfolio that is cost effective overall, as compared to similar program administration by individual electrical utilities, or to increase the cost effectiveness of energy efficiency program portfolios. This study must consider, but is not limited to, the following:

(1) whether third-party administration subject to a pay for performance contract and independent third-party evaluation, measurement, and verification could reduce administrative costs, as compared to separate administration of energy efficiency programs by individual electrical utilities;

(2) whether a system benefit charge or other funding or financing mechanism would more efficiently, effectively, and fairly fund energy efficiency and other demand side management programs through an administrator;

(3) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced lower historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(4) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced high historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(5) the legal and practical implications of implementing the various administrator models for an electrical utility with a multistate balancing authority area;

(6) which administrator model could most enhance an electrical utility’s delivery of nonenergy benefits, such as resiliency, reliability,

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health, economic development, industry retention, energy security, and pollution reduction; and

(7) which administrator model could most effectively pursue nonratepayer funding including, but not limited to, federal, state, or local governmental support, as a means of either reducing reliance of ratepayer funds or increasing the scope, reach, or effectiveness of energy efficiency and demand side management programs.

(D) This study must be conducted with public input from stakeholders through written comments and at least one public forum.

(E) The Office of Regulatory Staff is authorized to retain the services of an expert or consultant with expertise and experience in the successful implementation of energy efficiency administrator programs. The Office of Regulatory Staff is exempt from the procurement code for the purposes of retaining services for this study.

(F) The provisions of this section are subject to funding. However, the Office of Regulatory Staff must initiate the study within one year from receipt of necessary funding and complete its report within six months. Upon completion of this study, the Office of Regulatory Staff must provide its report to the General Assembly and the commission. This report may include a recommendation as to which administrator model should be established for each electrical utility, draft legislation, and requirements that should be established.

SECTION 31. Section 58-37-10 of the S.C. Code is amended to read:

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

(1) “Demand-side activity” or “demand-side management program” 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, through measures, 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

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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 requirements pursuant to Section 58-37-40 and any process adopted by the commission. For electric cooperatives subject to the regulations of the Rural ~~Electrification Administration~~Utilities Service, this definition must be interpreted in a manner consistent with any integrated resource planning process prescribed by Rural ~~Electrification Administration~~Utilities Service regulations.

(3) “Cost-effective” means that the net present value of benefits of a program or portfolio exceeds the net present value of the costs of the program or portfolio. A cost-effective program or portfolio must pass any two of the following tests:

- (a) utility cost test;
- (b) total resource cost test;
- (c) participant cost test; or
- (d) ratepayer impact measure test.

In evaluating the cost-effectiveness of a program or portfolio, a utility or program administrator must present the results of all four tests. In calculating cost-effectiveness, a utility must use a standard utility practice for determining the percentage of energy savings that would or would not have been achieved through customer adoption of an efficiency behavior or technology without any incentive allowed pursuant to this chapter to install and utilize the technology as part of the associated demand-side management program. The utility must designate the expected useful life of the measure and evaluate the costs and benefits of the measures over their useful lives in the program application based on industry-accepted standards. Further, in calculating the cost-effectiveness, the commission must consider the efficiencies and scale of programs that are or may be available across a utility’s balancing area, even if that balancing area extends outside of the state.

(4) “Demand-side management pilot program” means a demand-side management program that is of limited scope, cost, and duration and that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

SECTION 32. Section 58-37-20 of the S.C. Code is amended to read:

Section 58-37-20. (A) The General Assembly declares that expanding utility investment in and customer access to cost-effective demand-side management programs will result in more efficient use of existing resources, promote lower energy costs, mitigate



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the increasing need for new generation and associated resources, and assist customers in managing their electricity usage to better control their electric bill, and is therefore in the public interest.

(B) The commission may approve any program filed by a public utility if the program is found to be cost-effective. Furthermore, the commission may, in its discretion, approve any program filed by a public utility that is not cost-effective, so long as the proposed demand-side management program is targeted to low-income customers, provided that the public utility's portfolio of demand-side management programs is cost-effective as a whole.

(C) The South Carolina Public Service Commission may must adopt procedures that encourage require electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to plan for and invest in all reasonable, prudent, and available energy efficiency and demand-side resources that are cost-effective energy efficient technologies and energy conservation programs in an amount to be determined by the commission. If an electrical utility fails to meet the requirements of this section as determined by the commission, the commission is authorized to appoint a third-party administrator to carry out the residential low-income energy efficiency duties pursuant to this section on behalf of the electrical utility if the commission determines that having such a third-party administrator is in the public interest and consistent with law. Upon notice and hearings that the commission may require, the commission may issue rules, regulations, or orders pursuant to this chapter to implement applicable programs and measures under this section. 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 system or local coincident peak 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~~

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~~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.~~

(D) Each investor-owned electrical utility must submit an annual report to the commission describing the demand-side management programs implemented by the electrical utility in the previous year, provided the program has been operational for a reasonable period of time, as well as the results of such programs. The commission may require certain information including, but not limited to:

(1) achieved savings levels from the utility's portfolio of programs in the prior year, reported as a percentage of the utility's annual sales;

(2) program expenditures, including incentive payments;

(3) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(4) avoided costs and the techniques used to estimate those costs;

(5) estimated cost-effectiveness of the demand-side management programs;

(6) a description of economic benefits of the demand-side management programs;

(7) the number of customers eligible to opt-out of the electrical utility's demand-side management programs, the percentage of those customers that opted-out in the previous year, and the annual sales associated with those opt-out customers; and

(8) any other information required by the commission.

(E) To ensure prudent investments by an electrical utility in energy efficiency and demand response, as compared to potential investments in generation, transmission, distribution, and other supply related utility equipment and resources, the commission must review each investor-owned electrical utility's portfolio of demand-side management programs on at least a triennial basis to align the review of that utility's integrated resource plan pursuant to Section 58-37-40. The commission is authorized to order modifications to an electrical utility's demand-side management portfolio, including program budgets, if the commission determines that doing so in the public interest.

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(F) The provisions of subsections (C), (D), and (E) do not apply to an electrical utility that serves less than 100,000 customers in this State.

SECTION 33. Section 58-37-30 of the S.C. Code is amended to read:

Section 58-37-30. (A) The South Carolina Public Service Commission must report annually to the General Assembly on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities, as defined in the Public Utilities Regulatory Policies Act of 1978, by electrical utilities and public utilities providing gas services subject to the jurisdiction of the Public Service Commission.

(B) Electric cooperatives providing resale or retail services, municipally-owned electric utilities, and the South Carolina Public Service Authority shall report annually to the State Energy Office on available data regarding the past, on-going, and projected status of demand-side ~~activities~~management programs and purchase of power from qualifying facilities. For electric cooperatives, submission to the State Energy Office of a report on demand-side ~~activities~~management programs in a format complying with then current Rural ~~Electrification Administration~~Utilities Service regulations constitutes compliance with this subsection. An electric cooperative providing resale services may submit a report in conjunction with and on behalf of any electric cooperative which purchases electric power and energy from it. The State Energy Office must compile and submit this information annually to the General Assembly.

(C) The State Energy Office may provide forms for the reports required by this section to the Public Service Commission and to electric cooperatives, municipally-owned electric utilities, and the South Carolina Public Service Authority. The office shall strive to minimize differing formats for reports, taking into account the reporting requirements of other state and federal agencies. For electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission, the reporting form must be in a format acceptable to the commission.

SECTION 34. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-35. (A) An electrical utility may propose programs and customer incentives to encourage or promote demand-side management programs whereby a customer uses a customer-sited distributed energy resource, as defined in Section 58-39-120(C), or combination of such resources, to: (1) reduce the customer's electric

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consumption or demand from the electric grid, or (2) beneficially shape the customer's electric consumption or demand in a manner that reduces the customer's contribution to the electrical utility's system or local coincidental peak demand, subject to the associated load to utility management for reliability or economic purposes, or reduce future electrical utility system costs to serve its customers. Programs authorized pursuant to this section may also include distributed energy resources that draw additional power from the electric grid including, but not limited to, electric heat pumps with programmable or utility controlled thermostats, electric heat pump water heaters controlled through utility programs, smart home panels, advanced inverters, and energy storage devices located on the customer's side of the meter, provided that any programs or customer incentives otherwise meet the requirements of this section. These programs may also include a combination of resources, including renewable energy microgrids, to provide economic benefits to the utility system or to help address specific transmission or distribution issues that would otherwise require significant capital investment.

(B) In evaluating a program or customer incentive proposed pursuant to this section to assure reasonableness, promotion of the public interest, and consistency with the objectives of Sections 58-27-845 and 58-37-20, the commission must apply the procedure approved pursuant to Section 58-37-20. An electrical utility must use standard utility practices for determining the percentage of customers that would or would not have adopted a distributed energy resource without any incentive allowed under this section to install and utilize the distributed energy resource as part of the associated demand-side management program. The electrical utility must designate the expected useful life of the distributed energy resource and evaluate the costs and benefits of demand-side measures over their useful lives in the program application based on industry-accepted standards. All initial program costs, benefits, and participation assumptions used in the electrical utility's cost-effectiveness evaluations must be reviewed by the commission to assure the electrical utility has presented a reasonable basis for its calculation. Electrical utilities must update the cost-effectiveness analysis based on the actual program costs, benefits, and participation as soon as practicably possible based on standard evaluation, measurement, and verification protocols, and the electrical utility's cost recovery must be reconciled accordingly.

(C) For demand-side programs or customer incentives proposed in this section, the electrical utility may recover costs through the procedures in Section 58-37-20. The prohibition in Section 58-40-20(I)

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against recovery of lost revenues associated with distributed energy resources pursuant to Chapter 39, Title 58 is inapplicable to recovery of net lost revenues associated with a distributed energy resource that is installed as a result of a demand-side program incentive pursuant to this section or Section 58-37-20.

(D) The commission may approve any program filed pursuant to this section if the commission finds the program to be cost effective pursuant to Section 58-37-10(3). For any demand-side programs or customer incentives submitted under this section with projected annual customer incentive amounts less than five million dollars per year for each of the first two program years, the commission must issue an order as expeditiously as practicable on the written submissions of the electrical utility but may require an evidentiary hearing where novel or complex issues of fact require special review by the commission. Nothing in this section prevents the commission from ordering an electrical utility to modify or terminate a program approved pursuant to this section based on the results of standard evaluation, measurement, and verification protocols.

(E) The Energy Office must develop and publish materials intended to inform and educate the public regarding programs available to a customer pursuant to this section. The Energy Office must maintain a list of approved vendors who are qualified and in good standing to provide services associated with these programs.

SECTION 35. Section 58-37-50 of the S.C. Code is amended to read:

Section 58-37-50. (A) As used in this section:

(1) "Electricity provider" means an electric cooperative, an investor-owned electric utility, the South Carolina Public Service Authority, or a municipality or municipal board or commission of public works that owns and operates an electric utility system.

(2) "Natural gas provider" means an investor-owned natural gas utility or publicly owned natural gas provider.

(3) "Meter conservation charge" means the charge placed on a customer's account by which electricity providers and natural gas providers recover the costs, including financing costs, of energy efficiency and conservation measures.

(4) "Notice of meter conservation charge" means the written notice by which subsequent purchasers or tenants will be given notice that they will be required to pay a meter conservation charge.

(5) "Customer" means a homeowner or tenant receiving electricity or natural gas as a retail customer.

(6) "Community action agency" means a nonprofit

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eleemosynary corporation created pursuant to Chapter 45, Title 43 providing, among other things, weatherization services to a homeowner or tenant.

(B) Electricity providers and natural gas providers may enter into written agreements with customers and landlords of customers for the financing of the purchase price and installation costs of energy efficiency and conservation measures. These agreements may provide that the costs must be recovered by a meter conservation charge on the customer's electricity or natural gas account, provided that the electricity providers and natural gas providers comply with the provisions of this section. A failure to pay the meter conservation charge may be treated by the electricity provider or natural gas provider as a failure to pay the electricity or natural gas account, and the electricity provider or natural gas provider may disconnect electricity or natural gas service for nonpayment of the meter conservation charge, provided the electricity provider or natural gas provider complies with the provisions of Article 25, Chapter 31, Title 5; Article 17, Chapter 11, Title 6; Article 17, Chapter 49, Title 33; Article 11, Chapter 5, Title 58; Article 21, Chapter 27, Title 58; Article 5, Chapter 31, Title 58; and any applicable rules, regulations, or ordinances relating to disconnections.

(C) Any agreement permitted by subsection (B) must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one-year treasury bills as published by the Federal Reserve ~~at the time the agreement is entered~~ on the first business day of the calendar year in which the agreement is entered. An electrical utility entering into such an agreement whose rates are regulated by the commission must fix the interest rate over the term of the agreement to not exceed such utility's weighted average cost of equity and long-term debt as most recently approved by the commission at the time the agreement is entered. Any indebtedness created under the provisions of this section may be paid in full at any time before it is due without penalty.

(D) An electricity provider or natural gas provider may recover the costs, including financing costs, of these measures from its members or customers directly benefiting from the installation of the energy efficiency and conservation measures. Recovery may be through a meter conservation charge to the account of the member or customer and any such charge must be shown by a separate line item on the account. A utility entering into such agreement whose rates are regulated

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by the commission shall recover all reasonable and prudent incremental costs incurred to implement agreements for financing and installing energy-efficiency and conservation measures in base rates. Incremental costs may include, but are not limited to, billing system upgrades, overhead, incremental labor, and all other expenses properly considered to be associated with ensuring the ongoing premise bill savings are realized from offering during the terms of such agreements.

(E) An electricity provider or natural gas provider shall assume no liability for the installation, operation, or maintenance of energy efficiency and conservation measures when the measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of the measures, and no action may be maintained against the electricity provider or natural gas provider relating to the failure of the measures. An electricity provider or natural gas provider shall assume no liability for energy audits performed by third parties and shall provide no warranty relating to any energy audit done by any third party. Nothing in this section may be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy efficiency and conservation measures.

(F) Before entering into an agreement contemplated by this section, the electricity provider or natural gas provider shall cause to be performed an energy audit on the residence considered for the energy efficiency measures. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated. An agreement entered following completion of an energy audit shall specify the measures to be completed and the contractor responsible for completion of the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work. Upon completion of the work, it must be inspected by an energy auditor certified by the Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be

held in escrow by the electricity provider or natural gas provider.

(G) An electricity provider or natural gas provider that enters into an agreement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electricity provider or natural gas provider gives record notice that the residence is subject to the agreement. Notice must be given, at the expense of the filer, by filing a notice of meter conservation charge with the appropriate office for the county in which the residence is located, pursuant to Section 30-5-10. The notice of meter conservation charge does not constitute a lien on the property but is intended to give a purchaser of the residence notice that the residence is subject to a meter conservation charge. Notice is deemed to have been given if a search of the property records of the county discloses the existence of the charge and informs a prospective purchaser: (1) how to ascertain the amount of the charge and the length of time it is expected to remain in effect, and (2) of his obligation to notify a tenant if the purchaser leases the property as provided in subsection (H)(3).

(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in item (3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter



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conservation charge in the same manner as required by Section 27-40-240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one-half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Title 37 of the South Carolina Code of Laws.

(J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing functions under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).

(K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied ~~at before~~ the time the measures are taken. ~~The procedures allowed by this section may not be used with respect to a new residence or a residence under construction.~~ The provisions of this section may not be used to implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment, or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment, unless (1) the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider, or (2) an electric appliance used for home heating is being replaced by an appliance that operates primarily on electricity but which has the capability of also operating on a secondary fuel source.

(L) Electricity providers or natural gas providers may offer their customers other types of financing agreements available by law, instead of the option established in this section, for the types of energy efficiency or conservation measures described in this section.

(M)(1) An electricity provider or natural gas provider must not obtain funding from the following federal programs to provide loans provided by this section:

(a) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget

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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;

(b) 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.

(2) Nothing in this section changes the exclusive administration of these programs by local community action agencies through the South Carolina Governor's Office of Economic Opportunity pursuant to its authority pursuant to the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(3) Nothing in this subsection prevents a customer or member of an electricity provider or natural gas provider from obtaining services under the Low Income Home Energy Assistance Program or the Weatherization Assistance Program.

SECTION 36. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-215. (A) The Public Service Authority, in consultation with the South Carolina Department of Commerce, shall have the authority to serve as an anchor subscriber of incremental natural gas and pipeline capacity needed in the future by the State to recruit new transformational projects or to assist in the expansion of transformational projects as identified by the South Carolina Department of Commerce.

(B) The Public Service Authority is authorized to act on behalf of the State, to aid natural gas pipeline construction companies and natural gas shippers in obtaining approval for incremental capacity and delivery to this State to support economic growth. The Public Service Authority is authorized to demonstrate market support in required filings including,

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but not limited to, binding precedent agreements, and to make other attestations in furtherance of satisfaction of the application requirements of federal law and regulations. This subsection is subject to available funding.

(C) There is hereby established the “Energy Investment and Economic Development Fund” to be held in an operating account by the Public Service Authority to further the provisions of this section and other energy investment needs. Subject to the approval of the Joint Bond Review Committee, the Energy Investment and Economic Development Fund may be funded by the amount required to be paid to the State pursuant to Section 58-31-110 less the annual costs billed by the Office of Regulatory Staff and the South Carolina Public Service Commission. The South Carolina Department of Commerce shall report, at least once annually and no later than September first, to the Joint Bond Review Committee as to the level and need for funding to advance the provisions of this section. Unless sufficient funding is allocated to the Energy Investment and Economic Development Fund and such action is approved by the Joint Bond Review Committee, the Public Service Authority shall not execute a binding precedent agreement on behalf of the State pursuant to this section. In no event shall the costs associated with serving as an anchor affect the rates and charges for electric or water service for the Public Service Authority’s customers.

(D) The South Carolina Department of Commerce, with input from the Public Service Authority, is authorized to resell natural gas pipeline capacity rights procured pursuant to this section subject to a plan approved by the Joint Bond Review Committee. The proceeds of any sales of natural gas pipeline capacity rights must be deposited in the general fund of the State.

(E) When the Public Service Authority enters into a binding agreement on behalf of the State, the Office of Regulatory Staff, in representing the public interest and in collaboration with the Department of Commerce, is directed to make such filings supporting required federal regulatory approvals.

(F) The provisions of this section do not alter, amend, expand, or reduce, any other authority granted to the Public Service Authority in this chapter to enter into any agreements necessary for the provision of electric service.

SECTION 37.A. Section 58-3-70 of the S.C. Code is amended to read:

Section 58-3-70. ~~The chairman and members of the commission shall receive annual salaries payable in the same manner as the salaries of other state officers are paid. The commission members~~

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shall receive a salary in an amount equal to ninety-seven and one-half percent of the salary fixed for Associate Justices of the Supreme Court. Each commissioner must devote full time to his duties as a commissioner and must not engage in any other employment, business, profession, or vocation during the normal business hours of the commission.

B. This section is effective beginning with the fiscal year immediately following the Public Service Commission election for the reconstituted three-member commission.

SECTION 38. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-50. (A) The General Assembly encourages electrical utilities to explore cost effective, efficient bulk power solutions, particularly during periods of constrained capacity, for non-residential customers with electric loads in excess of 25 megawatts.

(B)(1) An electrical utility may file a proposed agreement regarding co-located resources between the utility and a customer with an electric load in excess of 25 megawatts for the commission's consideration. The proposed agreement must contain at least one of the following requirements:

(a) co-location of electric generation or storage on the customer's property provides bulk system benefits for all customers and benefits for the host customer;

(b) co-location of renewable electric generation resources on the customer's property provides bulk system benefits for all customers and the renewable attributes associated with such generation can be allocated to the host customer;

(c) co-location of electric generation on the customer's property would result in permitting and siting efficiencies to enable electric generation to come online earlier than otherwise could occur; or

(d) co-location of electric generation resources on the customer's property could be utilized as resiliency resources to serve the electric grid in times of need.

(2) In the filing with the commission, the electrical utility must include a description of:

(a) how the resource helps to serve resource needs identified in the electrical utility's most recent integrated resource plan filing;

(b) credit and ratepayer protections included in the agreement;

(c) the contractual terms that preserves the electrical utility's operation of resources; and

(d) how costs and benefits associated with the agreement would be allocated among the customer who is a party to the agreement

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and other customers in the electrical utility's balancing area.

(C) The commission must give a proposed agreement filed pursuant to this section expedited consideration. The commission may approve the proposed agreement if the commission finds:

- (1) the proposed program was voluntarily agreed upon by the electrical utility and the customer,
- (2) the filing meets the requirements of this section; and
- (3) the proposed agreement is in the public interest.

(D) For purposes of this section, "co-located" or "co-location" includes electric generation and associated facilities on a customer's site as well as any location where the connection to the electrical utility is in such proximity to the customer's site that enables resilient power supply to support the development of power supply to meet the customer's needs. An agreement regarding co-location may also include potential co-ownership of the electric generation and associated facilities by the electrical utility and the customer.

(E) Notwithstanding opportunities for co-located resources, the General Assembly also encourages electrical utilities to continue to facilitate service to new electric loads in excess of 50 megawatts and to require operational and financial performance requirements for such customers to receive service pursuant to tariffed electrical utility rates or contracts approved by the commission, and to ensure appropriate protections and risk mitigation for the protection of the electrical utility's existing customers. The electrical utility may meet these objectives by: (1) filing form contracts with the commission; (2) tariff offerings or services regulations filed with the commission; or (3) performance and credit policies reviewed by the Office of Regulatory Staff.

SECTION 39. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-15. (A) As of July 1, 2025, there is hereby created within the Office of Regulatory Staff a division that must be separate and apart from all other divisions within the Office of Regulatory Staff and titled the Division of Consumer Advocacy.

(B) The duties, functions, and responsibilities of the Division of Consumer Advocacy in the Department of Consumer Affairs related to appearances before the commission are hereby transferred to the Division of Consumer Advocacy in the Office of Regulatory Staff on July 1, 2025. All appropriations and full-time equivalent positions of the Division of Consumer Advocacy in the Department of Consumer Affairs that are devoted solely to advocating on behalf of consumers before the commission shall be transferred to the Office of Regulatory Staff on July

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1, 2025.

(C) The Division of Consumer Advocacy shall have the ability to represent residential utility consumers in matters before the commission and appellate courts.

(D) The Division of Consumer Advocacy shall consist of a Residential Utility Consumer Advocate and other personnel as may be necessary in order for the division to represent residential utility consumers in matters before the commission and appellate courts. The Residential Utility Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of eight years practice experience and must be appointed in the same manner as the Executive Director of the Office of Regulatory Staff pursuant to the procedure set forth in Section 58-4-30.

(E) To the extent necessary to carry out its responsibilities, the Division of Consumer Advocacy may hire third-party consultants as the Residential Utility Consumer Advocate may consider necessary to assist the Division of Consumer Advocacy in its participation in proceedings before the commission and appellate courts.

(F) The Division of Consumer Advocacy is exempt from the State Procurement Code in the hiring of third-party consultants. However, the Division of Consumer Advocacy must not hire the same third-party consultant hired by the Office of Regulatory Staff or the commission.

(G) The Office of Regulatory Staff shall provide such administrative support to the Division of Consumer Advocacy as the division may require in the performance of its duties including financial management, human resources management, information technology, procurement services, and logistical support. The Office of Regulatory Staff shall not provide to the Division of Consumer Advocacy, and the Division of Consumer Advocacy shall not require of the Office Regulatory Staff, legal representation, technical, economic, or auditing assistance regarding any matter pending before the Public Service Commission when providing such assistance would create a conflict of interest.

SECTION 40. (A) To foster economic development and future jobs in this State resulting from the supply-chains associated with the same while supporting the significant and growing energy and capacity needs of the State, enhance grid resiliency, and maintain reliability, the General Assembly finds that the State of South Carolina should take steps necessary to encourage the development of a diverse mix of long-lead, clean generation resources that may include advanced small modular reactors, biomass as defined in Section 12-63-20(B)(2) of

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the S.C. Code, hydrogen-capable resources, and the Carolina Long Bay Project, and should preserve the option of efficiency development of such long-lead resources with timely actions to establish or maintain eligibility for or capture available tax or other financial incentives or address operational needs.

(B) For an electrical utility to capture available tax or other financial or operational incentives for South Carolina ratepayers in a timely manner, the commission may find that actions by an electrical utility in pursuit of the directives in Section 58-37-35(A) are in the public interest, provided that the commission determines that such proposed actions are in the public interest and reasonably balance economic development and industry retention benefits, capacity expansion benefits, resource adequacy and diversification, emissions reduction levels, and potential risks, costs, and benefits to ratepayers and otherwise comply with all other legal requirements applicable to the electrical utility's proposed action. For the South Carolina Public Service Authority, the Office of Regulatory Staff and the Public Service Authority's board of directors shall apply the same principles described in this subsection in evaluating and approving actions proposed by the management of the Public Service Authority to achieve the objectives of this section.

SECTION 41. All reasonable and prudent costs incurred by an electrical utility necessary to effectuate this act, that are not precluded from recovery by other provisions of this act and that do not have a recovery mechanism otherwise specified in this act or established by state law, shall be deferred for commission consideration of recovery in any proceeding initiated pursuant to Section 58-27-870, and allowed for recovery if the commission determines the costs are reasonable and prudent.

SECTION 42. An electrical utility, including the Public Service Authority, may not offer a tariff, rider, or rate proposal for a reduced electric rate, nor any other form of incentive that would result in a reduced electric rate to a data center until July 1, 2034. For purposes of this section, "data center" means any facility that primarily contains electronic equipment used to process, store, and transmit digital information which may be (a) a free-standing structure; or (b) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

SECTION 43. Section 58-40-10(F) of the S.C. Code is amended to read:

(F) "Renewable energy resource" means solar

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photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources as defined in Section 12-63-20(B)(2).

SECTION 44. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the regulation of electrical utilities, the provision of electricity, and economic development as clearly enumerated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 45. 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 46. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Rep. ANDERSON explained the amendment.

Rep. BAMBERG spoke against the amendment.

Rep. BAMBERG moved to table the amendment.

Rep. ANDERSON demanded the yeas and nays which were taken, resulting as follows:

Yeas 30; Nays 79

Those who voted in the affirmative are:

[HJ]

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Ballentine	Bamberg	Bauer
Bernstein	Bradley	Calhoon
Cobb-Hunter	Dillard	Garvin
Gilliard	Harris	Hart
Henderson-Myers	Hosey	J. L. Johnson
W. Jones	King	McCabe
McDaniel	J. Moore	Moss
Ott	Pendarvis	Rose
Sessions	Spann-Wilder	Stavrinakis
Taylor	Wetmore	Wooten

**Total--30**

Those who voted in the negative are:

Anderson	Atkinson	Bailey
Bannister	Beach	Blackwell
Brewer	Brittain	Burns
Bustos	Carter	Chapman
Chumley	Collins	Connell
B. J. Cox	B. L. Cox	Crawford
Cromer	Davis	Elliott
Felder	Forrest	Gagnon
Gibson	Gilliam	Guest
Haddon	Hager	Hardee
Hartnett	Hayes	Hewitt
Hiott	Hixon	Jefferson
J. E. Johnson	S. Jones	Jordan
Kilmartin	Kirby	Landing
Lawson	Leber	Ligon
Long	Lowe	Magnuson
May	McCrary	McGinnis
Mitchell	T. Moore	A. M. Morgan
T. A. Morgan	Murphy	Neese
B. Newton	W. Newton	O'Neal
Oremus	Pace	Pedalino
Pope	Robbins	Sandifer
Schuessler	G. M. Smith	M. M. Smith
Thayer	Trantham	Vaughan
Weeks	West	White

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Whitmire  
Yow

Williams

Willis

**Total--79**

So, the House refused to table the amendment.

The question then recurred to the adoption of the amendment.

The amendment was then adopted by a division vote of 65 to 29.

The question recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 75; Nays 32

Those who voted in the affirmative are:

Anderson	Atkinson	Bailey
Ballentine	Bannister	Bauer
Bernstein	Blackwell	Bradley
Brewer	Brittain	Bustos
Calhoon	Carter	Caskey
Chumley	Clyburn	Collins
Connell	B. J. Cox	B. L. Cox
Crawford	Elliott	Erickson
Felder	Forrest	Gagnon
Gibson	Gilliam	Gilliard
Guest	Haddon	Hager
Hardee	Hartnett	Hayes
Hewitt	Hiott	Hixon
Jefferson	Jordan	Kirby
Landing	Leber	Ligon
Long	Lowe	McGinnis
Mitchell	Moss	Murphy
Neese	B. Newton	W. Newton
Ott	Pedalino	Pope
Robbins	Rose	Sandifer
Schuessler	G. M. Smith	M. M. Smith
Stavrinakis	Taylor	Thayer
Vaughan	Weeks	West

[HJ]

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Wetmore	Whitmire	Williams
Willis	Wooten	Yow

**Total--75**

Those who voted in the negative are:

Bamberg	Beach	Cobb-Hunter
Cromer	Dillard	Garvin
Harris	Henderson-Myers	Hosey
J. E. Johnson	J. L. Johnson	S. Jones
W. Jones	Kilmartin	King
Lawson	Magnuson	May
McCabe	McCrary	McDaniel
J. Moore	T. Moore	A. M. Morgan
T. A. Morgan	O'Neal	Oremus
Pace	Pendarvis	Spann-Wilder
Trantham	White	

**Total--32**

So, the Bill, as amended, was read the second time and ordered to third reading.

**H. 5438--REQUESTS FOR DEBATE**

The following Joint Resolution was taken up:

H. 5438 -- Reps. Hiott and McCrary: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO SCHOOL AND CLASSROOM LIBRARY MATERIALS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5269, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Reps. COBB-HUNTER, BRADLEY, OTT, GILLIARD, KING, KIRBY, HOSEY, ANDERSON, WILLIAMS, HENDERSON-MYERS, MAGNUSON, WEEKS, WEST, J. L. JOHNSON, WETMORE, CASKEY, MAY, WHITE, S. JONES, KILMARTIN, BALLENTINE, BAUER, GARVIN, SPANN-WILDER, PENDARVIS, BURNS, CHUMLEY, DILLARD, W. JONES, MCDANIEL, JEFFERSON, CLYBURN and HARRIS requested debate on the Joint Resolution.

[HJ]

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Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**RECURRENCE TO THE MORNING HOUR**

Rep. BRADLEY moved that the House recur to the morning hour, which was agreed to.

**REPORTS OF STANDING COMMITTEES**

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report on:

S. 881 -- Senators M. Johnson, McLeod, Devine and Rankin: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING THE "PROHIBITION OF UNFAIR REAL ESTATE SERVICE AGREEMENTS ACT"; AND TO MAKE THE PROHIBITIONS EFFECTIVE FOR ANY UNFAIR REAL ESTATE SERVICE AGREEMENTS THAT ARE RECORDED ON THE EFFECTIVE DATE OF THIS ACT OR THAT ARE EXECUTED MODIFIED, EXTENDED, OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

Ordered for consideration tomorrow.

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report with amendments on:

S. 434 -- Senator Alexander: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 38-78-55 SO AS TO PROVIDE THAT NO CLAUSE OF A SERVICE CONTRACT WHICH STATES THAT THE TERM OF THE CONTRACT SHALL BE DEEMED RENEWED FOR A SPECIFIED ADDITIONAL PERIOD, UNLESS THE SERVICE CONTRACT HOLDER GIVES NOTICE TO THE PROVIDER OF HIS INTENTION TO TERMINATE THE CONTRACT AT THE EXPIRATION OF THE TERM, SHALL BE ENFORCEABLE AGAINST THE SERVICE CONTRACT HOLDER.

Ordered for consideration tomorrow.

**WEDNESDAY, MAY 1, 2024**

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report with amendments on:

S. 700 -- Senator Davis: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 8 TO CHAPTER 5, TITLE 39 TO ESTABLISH THE "SOUTH CAROLINA EARNED WAGE ACCESS SERVICES ACT" SO AS TO PROVIDE FOR REQUIREMENTS FOR EARNED WAGE ACCESS SERVICES PROVIDERS, AND TO PROVIDE FOR CERTAIN EXEMPTIONS AND LIMITATIONS.

Ordered for consideration tomorrow.

### **HOUSE RESOLUTION**

The following was introduced:

H. 5500 -- Reps. Ott, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoun, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A HOUSE RESOLUTION TO HONOR THE SANDY RUN RURITAN CLUB AND MR. HOWARD PEES FOR SPONSORING THE ANNUAL "LIBERTY DAY AT THE STATE HOUSE" FOR THE STUDENTS OF SANDY RUN ELEMENTARY SCHOOL AND TO RECOGNIZE THE VALUE OF THE LEARNING OPPORTUNITY THEY PROVIDE TO THE STUDENTS.

The Resolution was adopted.

**WEDNESDAY, MAY 1, 2024**

**HOUSE RESOLUTION**

The following was introduced:

H. 5501 -- Rep. McCravy: A HOUSE RESOLUTION TO DECLARE THURSDAY, MAY 2, 2024, AS A DAY OF PRAYER IN SOUTH CAROLINA, IN ACCORDANCE WITH THE OBSERVANCE OF THE NATIONAL DAY OF PRAYER, AND TO URGE OUR STATE'S CITIZENS TO JOIN TOGETHER IN THEIR HOMES, PLACES OF WORK, AND HOUSES OF WORSHIP TO PRAY FOR THE UNITY OF THE HEARTS OF ALL MANKIND AND TO CONTINUE IN PRAYER FOR OUR STATE AND OUR NATION.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 5502 -- Reps. Erickson, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoun, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore, A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, G. M. Smith, M. M. Smith, Spann-Wilder, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, Weeks, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A HOUSE RESOLUTION TO CONGRATULATE PAT HARVEY-PALMER OF BEAUFORT COUNTY ON THE OCCASION OF HER EIGHTIETH BIRTHDAY AND TO WISH HER MANY YEARS OF CONTINUED HEALTH AND HAPPINESS.

The Resolution was adopted.

**WEDNESDAY, MAY 1, 2024**

**INTRODUCTION OF BILL**

The following Bill was introduced, read the first time, and referred to appropriate committee:

H. 5503 -- Reps. Hardee, J. E. Johnson, Bailey and McGinnis: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-37-220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE A PROPERTY TAX EXEMPTION FOR TWO PRIVATE PASSENGER VEHICLES OWNED OR LEASED BY ANY PERMANENTLY AND TOTALLY DISABLED FORMER LAW ENFORCEMENT OFFICER, FORMER EMERGENCY MEDICAL TECHNICIAN, OR FORMER FIREFIGHTER.

Referred to Committee on Ways and Means

**S. 1266--ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

S. 1266 -- Judiciary Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE WORKERS' COMPENSATION COMMISSION, RELATING TO PAYMENT OF COMPENSATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 5266, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

Rep. BRADLEY explained the Joint Resolution.

The yeas and nays were taken resulting as follows:

Yeas 112; Nays 0

Those who voted in the affirmative are:

Anderson	Atkinson	Bailey
Ballentine	Bamberg	Bannister
Bauer	Beach	Bernstein
Blackwell	Bradley	Brewer
Brittain	Burns	Bustos
Calhoon	Carter	Caskey
Chapman	Chumley	Clyburn
Cobb-Hunter	Collins	Connell
B. J. Cox	B. L. Cox	Crawford
Cromer	Davis	Dillard

[HJ]

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Elliott	Erickson	Felder
Forrest	Gagnon	Gibson
Gilliam	Gilliard	Guest
Haddon	Hager	Hardee
Harris	Hart	Hartnett
Hayes	Henderson-Myers	Herbkersman
Hewitt	Hiott	Hixon
Hosey	Jefferson	J. E. Johnson
J. L. Johnson	S. Jones	W. Jones
Jordan	Kilmartin	King
Kirby	Landing	Lawson
Leber	Ligon	Long
Lowe	Magnuson	May
McCabe	McCrary	McDaniel
McGinnis	Mitchell	J. Moore
T. Moore	A. M. Morgan	T. A. Morgan
Moss	Murphy	Neese
B. Newton	W. Newton	O'Neal
Oremus	Ott	Pace
Pedalino	Pendarvis	Pope
Robbins	Rose	Sandifer
Schuessler	Sessions	G. M. Smith
M. M. Smith	Spann-Wilder	Stavrinakis
Taylor	Thayer	Trantham
Vaughan	Weeks	West
Wetmore	White	Whitmire
Williams	Willis	Wooten
Yow		

**Total--112**

Those who voted in the negative are:

**Total--0**

So, the Joint Resolution was read the second time and ordered to third reading.

Rep. HIOTT moved that the House do now adjourn, which was agreed to.

[HJ]



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**RETURNED WITH CONCURRENCE**

The Senate returned to the House with concurrence the following:

H. 4965 -- Reps. Mitchell, Yow, Connell and B. Newton: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE JUNCTION AT LOCKHART ROAD AND KEYS LANE IN KERSHAW COUNTY "COMMISSIONER DAVID E. BRANHAM, SR. INTERSECTION" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS LOCATION CONTAINING THESE WORDS.

H. 5323 -- Reps. Yow, Henegan, Mitchell and Williams: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 9/UNITED STATES HIGHWAY 601 FROM ITS INTERSECTION WITH STATE ROAD S-13-40 (HIGH POINT CHURCH ROAD) TO ITS INTERSECTION WITH STATE ROAD S-13-555 (ARANT STREET) IN CHESTERFIELD COUNTY "SSGT. JASON C. HICKS MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS LOCATION CONTAINING THESE WORDS.

**ADJOURNMENT**

At 1:20 p.m. the House, in accordance with the motion of Rep. MCGINNIS, adjourned in memory of his mother, Mary Lou McGinnis, to meet at 10:00 a.m. tomorrow.

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H. 5493 .....	4	S. 1126 .....	11, 13
H. 5494 .....	4	S. 1242 .....	7
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H. 5499 .....	112	S. 1268 .....	6
H. 5500 .....	468	S. 1276 .....	7
H. 5501 .....	469	S. 1285 .....	8
H. 5502 .....	469	S. 1292 .....	8
H. 5503 .....	470	S. 1304 .....	6
		S. 1306 .....	6
S. 408 .....	112		