

1 H. 3194

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3 Amend the bill, as and if amended, by striking all after the  
4 enacting words and inserting:

5

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

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9

Part I

10

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

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Part II

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18 SECTION 2. A special committee is hereby created to be  
19 composed of six members, three from each House, to be selected  
20 by each body in the same manner members of conference  
21 committees are selected by that body. The duties and  
22 responsibilities of the special committee are to further negotiate the  
23 terms and conditions of the preferred sale proposal of Santee  
24 Cooper as recommended by the Department of Administration  
25 pursuant to Act 95 of 2019. The special committee shall adopt and  
26 set its own rules of procedure. The special committee at the  
27 conclusion of its deliberations shall recommend a proposal to sell  
28 the South Carolina Public Service Authority as modified by its  
29 further negotiations regarding the recommended preferred sale  
30 proposal. This recommendation and report may be accepted and  
31 approved by each House in the same manner conference  
32 committee reports are accepted and approved. Upon approval of  
33 the special committee report by the General Assembly, the report  
34 also must be transmitted to the Governor for his approval in the  
35 same manner enactments are presented to him under Article IV of  
36 the Constitution of this State. The Department of Administration  
37 shall execute on behalf of the State of South Carolina the  
38 documents necessary to effectuate the sale proposal approved in  
39 the manner provided in this section.

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

43

Part III

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

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

“Section 58-31-20. (A) The Public Service Authority consists of a board of twelve directors who reside in South Carolina and who have the qualifications stated in this section, as determined by the State Regulation of Public Utilities Review Committee pursuant to Section 58-3-530(14), before being appointed by the Governor with the advice and consent of the ~~Senate~~ General Assembly as follows: one from each congressional district of the State; ~~and~~ and one from each of the counties of Horry, Berkeley, and Georgetown who reside in authority territory and are customers of the authority; ~~and two from the State at large, one of whom must be chairman. Two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative. A director shall not serve as an employee or board member of an electric cooperative during his term as a director. Two of the directors from the congressional districts must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative. The board also shall have one director recommended to the Governor by the South Carolina Manufacturers Alliance to represent industrial customers of the authority, and one director recommended to the Governor by the governing authority of the authority’s largest wholesale customer; provided, however, these two directors may not be an employee, counsel, or board member of a customer served by the authority.~~

~~A director shall not serve as an employee or board member of an electric cooperative during his term as a director. Each director shall serve for a term of seven five years, and shall not serve more than two consecutive terms except as provided in this section. At the expiration of the term of each director and of each succeeding director, the Governor, with the advice and consent of the Senate, must appoint a successor, who shall hold office for a term of seven~~

1 ~~years or until his successor has been appointed and qualified.~~ In  
2 the event of a director vacancy due to death, resignation, or  
3 otherwise, the Governor must appoint the director's successor,  
4 with the advice and consent of the Senate General Assembly, and  
5 the successor-director shall hold office for the remainder of the  
6 unexpired term. ~~A director may not receive a salary for services as~~  
7 ~~director until the authority is in funds, but each director must be~~  
8 ~~paid his actual expense in the performance of his duties, the actual~~  
9 ~~expense to be advanced from the contingent fund of the Governor~~  
10 ~~until the time the Public Service Authority is in funds, at which~~  
11 ~~time the contingent fund must be reimbursed.~~ After the Public  
12 Service Authority is in funds, the compensation and expenses of  
13 each member of the board must be paid from these funds, and the  
14 compensation and expenses must be fixed by the advisory board  
15 established in this section. A director may not receive a salary for  
16 services as a director. However, the authority, by vote at a  
17 regularly scheduled meeting, may choose to grant the director  
18 compensation based upon the availability of funds in excess of the  
19 previous year's operational costs. This compensation must be  
20 reasonably based upon the financial performance of the authority  
21 in the previous fiscal year. Directors may receive reimbursement  
22 from the authority for actual expenses associated with their service  
23 as directors. Members of the board of directors may be removed  
24 for cause, pursuant to Section 1-3-240(C) or a violation of Section  
25 58-31-55, by the Governor of the State, the advisory board, or a  
26 majority thereof. A member of the General Assembly of the State  
27 of South Carolina is not eligible for appointment as Director of the  
28 Public Service Authority during the term of his office. ~~No more~~  
29 ~~than two members from the same county may serve as directors at~~  
30 ~~any time.~~ A director may not have made a campaign contribution  
31 to the Governor who appoints them in the election cycle  
32 immediately preceding their appointment.

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

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

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

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

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

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

19 (2) Each member also must have:

20 (a) a baccalaureate or more advanced degree from:

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

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

26 (iii) an institution of higher learning chartered before  
27 1962; and

28 (b) a background of substantial duration and an expertise  
29 in at least one of the following:

30 (i) energy issues;

31 (ii) consumer protection and advocacy issues;

32 (iii) water and wastewater issues;

33 (iv) finance, economics, and statistics;

34 (v) accounting;

35 (vi) engineering; or

36 (vii) law.

37 (D) For the assistance of the board of directors of the Public  
38 Service Authority, there is hereby established an advisory board to  
39 be known as the advisory board of the South Carolina Public  
40 Service Authority, to be composed of the Governor of the State,  
41 the Attorney General, the State Treasurer, the Comptroller  
42 General, and the Secretary of State, as ex officio members, who  
43 must serve without compensation other than necessary traveling

1 expenses. The advisory board must perform any duties imposed on  
2 it pursuant to this chapter, and must consult and advise with the  
3 board of directors on any and all matters which by the board of  
4 directors may be referred to the advisory board. The board of  
5 directors must make annual reports to the advisory board, which  
6 reports must be submitted to the General Assembly by the  
7 Governor, in which full information as to all of the acts of said  
8 board of directors shall be given, together with financial statement  
9 and full information as to the work of the authority. On July first of  
10 each year, the advisory board must designate a certified public  
11 accountant or accountants, resident in the State, for the purpose of  
12 making a complete audit of the affairs of the authority, which must  
13 be filed with the annual report of the board of directors. The Public  
14 Service Authority must submit the audit to the General Assembly.

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

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

19 (2) The Secretary of Commerce or his designee;

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

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

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

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

38  
39 “(11) to make bylaws for the management and regulation of  
40 its affairs, including the establishment of subcommittees of the  
41 board of directors to include Finance and Audit, Public  
42 Information, Water Services and Resource Management,  
43 Generation and Power Supply Planning, and Executive and

1 Governance, each of these making regular reports to the full board  
2 of directors at each regular meeting of the full board;

3 (12) ~~to appoint officers, agents, employees, and servants, to~~  
4 ~~prescribe their duties, and to fix their compensation~~ to select a  
5 chief executive officer for the authority who shall cause the  
6 authority to employ all necessary employees and to approve the  
7 employment and compensation of any senior management officials  
8 selected as the chief executive officer;”  
9

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

11

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

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

17 (1) in good faith;

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

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

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

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

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

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

41 (1) one or more officers or employees of the Public Service  
42 Authority whom the director reasonably believes to be reliable and  
43 competent in the matters presented;

1 (2) legal counsel, public accountants, or other persons as to  
2 matters the director reasonably believes are within the person's  
3 professional or expert competence; or

4 (3) a committee of the board of directors of which he is not a  
5 member if the director reasonably believes the committee merits  
6 confidence.

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

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

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

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

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

37 (1) non-nuclear electric generation matters by providing for:  
38 (a) the provision of generation outage, security,  
39 engineering, training, benchmarking, environmental emissions data  
40 capture, and decommissioning support services; and  
41 (b) the provision of planning, engineering, and  
42 construction operations services to support generating station  
43 development projects;

- 1 (2) fuel procurement and environmental commodities by  
2 providing for services related to the procurement and  
3 transportation of all fuels and emissions reduction products and  
4 physical and financial hedging of such fuels and emissions  
5 reduction products;
- 6 (3) electric transmission matters by providing for:  
7 (a) the preparation and coordination of planning studies,  
8 consulting, designing, inspecting, and engineering, construction  
9 and maintenance support services of electric transmission and  
10 substation plant facilities;  
11 (b) support services related to relay settings and  
12 coordination, relay misoperation analysis, relay repair and  
13 maintenance, substation and transmission line equipment  
14 specifications, electrical equipment repair and maintenance, and  
15 general outage coordination support; and  
16 (c) vegetation management so as to improve the reliability  
17 of electric transmission systems by preventing outages from  
18 vegetation located on transmission rights-of-way and minimizing  
19 outages from vegetation located adjacent to rights-of-way, and  
20 maintaining clearance between transmission lines and vegetation  
21 on and along transmission rights-of-way;
- 22 (4) electric distribution matters by providing for metering,  
23 vegetation management, safety, training, weather forecasting,  
24 design, engineering, planning studies, substation and distribution  
25 control equipment installation, field support and operation support  
26 services; the planning, formulation, and implementation of load  
27 retention, load shaping and conservation and efficiency programs,  
28 and integrated resource planning for supply-side plans and  
29 demand-side management programs;
- 30 (5) emergency services by providing aid in the emergency  
31 restoration of electric service such as:  
32 (a) distribution line restoration;  
33 (b) transmission line restoration;  
34 (c) generation facility restoration;  
35 (d) vegetation management;  
36 (e) damage assessment;  
37 (f) substation restoration;  
38 (g) relay (system protection) restoration; and  
39 (h) other critical maintenance and emergency restoration  
40 support services to assist in the safe and timely restoration of  
41 electric service;
- 42 (6) supply-chain matters by providing for the procurement of  
43 real and personal property, materials, supplies and services,



1 conduct purchase negotiations, prepare procurement agreements,  
2 and administer programs of material control;

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

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

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

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

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

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

41 (F) The Public Service Authority shall prepare and submit a  
42 report annually to the Governor of the State of South Carolina, the  
43 President of the Senate of the State of South Carolina, the Speaker

1 of the House of Representatives of the State of South Carolina, the  
2 Office of Regulatory Staff, and the Public Service Commission of  
3 South Carolina regarding the implementation of this Section.

4 (G) Nothing in this section shall be construed to amend or alter in  
5 any way the existing wholesale power supply contract between the  
6 Public Service Authority and Central Electric Power Cooperative.  
7

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

10  
11 “Section 58-31-295. (A) For purposes of this section, ‘Reform  
12 plan’ means the loads and resources portion of the Public Service  
13 Authority’s reform plan submitted to the General Assembly  
14 pursuant to Act 95 of 2019 related only to the Public Service  
15 Authority’s plans for meeting its future capacity and energy needs  
16 and does not include other portions of the reform plan, including  
17 governance or any other item not related directly to meeting its  
18 future capacity and energy needs.

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

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

37 (3) Upon receipt of the Public Service Authority’s integrated  
38 resource plan incorporating the revised reform plan, the  
39 commission shall open a docket and establish a proceeding to  
40 review the integrated resource plan incorporating the revised  
41 reform plan pursuant to Section 58-37-40.  
42  
43

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

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

11 (a) evaluating the cost-effectiveness and ratepayer risk of  
12 self-build generation and its associated interconnected  
13 transmission options compared with various long-term power  
14 supply alternatives including power purchase agreements,  
15 competitive procurement of renewable energy, joint dispatch  
16 agreements, market purchases from an existing regional  
17 transmission organization, joining or creating a new regional  
18 transmission organization, or any combination thereof. In  
19 evaluating the cost-effectiveness of long-term power supply  
20 alternatives, the commission shall strive to reduce the risk to  
21 ratepayers associated with self-build generation or transmission  
22 options while maintaining safe and reliable electric service.

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

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

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

41 (D) During the pendency of the regulatory proceeding, the Public  
42 Service Authority may not begin the construction, purchase, or  
43 lease of any facility for the generation or transmission of electricity

1 over one hundred megawatts to be directly or indirectly used for  
2 the furnishing of electric service and may not enter into any  
3 long-term power purchase agreements without prior commission  
4 approval. During the pendency of the regulatory proceeding,  
5 nothing in this section prohibits the Authority from:

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

15 (2) doing all those things necessary for deploying up to 500  
16 megawatts of new solar generation in accordance with Act 135 of  
17 2020, subject to consent of Central pursuant to the Coordination  
18 Agreement;

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

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

32  
33 Section 58-31-296. (A)(1) The commission, in consultation with  
34 the Office of Regulatory Staff and the Public Service Authority,  
35 shall develop, publicize, and keep current an analysis of the Public  
36 Service Authority's:

37 (a) long-range capacity and energy needs;

38 (b) long-range needs for expansion of facilities for the  
39 generation of electricity;

40 (c) estimates of the probable future growth of the use of  
41 electricity;

42 (d) extent, size, mix, and general location of generating  
43 plants and arrangements for pooling power to the extent not

1 regulated by the Federal Energy Regulatory Commission and other  
2 arrangements with other utilities and energy suppliers to achieve  
3 maximum efficiencies for the benefit of the customers of the  
4 Public Service Authority.

5 (2) This analysis must include an estimate of:  
6 (a) the probable future growth of the use of electricity;  
7 (b) the probable need of generating reserves;  
8 (c) in the judgment of the commission, the optimal extent,  
9 size, mix, and general location of generating plants;

10 (d) in the judgment of the commission, the optimal  
11 arrangements for statewide or regional pooling of power and  
12 arrangements with other utilities and energy suppliers to achieve  
13 maximum efficiencies for the benefit of the people of South  
14 Carolina; and

15 (e) the comparative costs, on a net present-value basis, of  
16 meeting future growth by other means of providing reliable,  
17 efficient, and economic electric service, including purchase of  
18 power, competitive market power purchases, joint ownership of  
19 facilities, refurbishment of existing facilities, conservation  
20 (including energy efficiency), load management, distributed  
21 generation, and cogeneration.

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

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

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

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

38  
39 F. Chapter 31, Title 58 of the 1976 Code is amended by adding:

40 "Article 7

41 PSA Retail Rates Process

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

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

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

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

(b) by advertisements to be published in newspapers of general circulation within the service territory of the authority;

(c) by way of Santee Cooper's regularly maintained website, including a conspicuous portal or link accessible from the website's landing page; and

(d) by issuance of a news release to local news outlets.

(2) The notice of proposed rate increases required by this subsection shall contain the following information:

(a) the date, time, and location of all public meetings;

(b) the date, time, and location of the meeting at which a proposed rate increase is expected to be submitted to the board of directors for its consideration;

(c) the date, time, and location of the meeting at which the board of directors is expected to vote on the proposed rate increase;

(d) a notification to customers of their right to:

(i) review the proposed rate schedules;

(ii) appear and speak in person concerning the proposed rates at public meetings or the specified meetings of the board of directors; and

(iii) submit written comments;

(e) the means by which customers can submit written comments, including the email and physical addresses to which written comments may be submitted, and the deadline for submitting such comments; and

1 (f) the means by which customers can access and review  
2 a written report containing the proposal of proposed rate  
3 adjustments, any rate study, or other documentation developed by  
4 the authority in support of the rate increase, when these materials  
5 become available.

6 (3) Contemporaneously with notice to customers, the  
7 authority shall provide notice of proposed rate increases to the  
8 Office of Regulatory Staff and the Department of Consumer  
9 Affairs.

10 (4) A rate adjustment that does not result in a proposed rate  
11 increase does not require notice pursuant to this subsection.

12 (5) Customers whose rates will not increase are not entitled  
13 to notice pursuant to this subsection.

14 (B) In addition to the requirements of notice set forth above, the  
15 authority shall provide for the following:

16 (1) a comprehensive review of the authority's rate structure  
17 and rates, consistent with the provisions of Chapter 31, Title 58  
18 and the Public Service Authority's bond covenants concerning the  
19 Public Service Authority's revenue requirements provided that:

20 (a) management may engage consultants as necessary to  
21 assist the authority in completing this review; and

22 (b) this review should include such subjects as the  
23 authority's revenue requirements, a cost of service analysis, and  
24 rate/tariff design;

25 (2) a written report of management's recommendations  
26 concerning proposed rate adjustments;

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

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

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

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

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

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

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

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

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

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

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

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



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

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

5 (b) at the hearing the board of directors shall receive  
6 management's recommendation concerning proposed rate  
7 increases, results of the inspection, audit and examination of the  
8 Office of Regulatory Staff, the proposed rate schedules,  
9 documentation supporting the same, written comments, and  
10 transcripts of the public meetings provided that:

11 (i) at this hearing customers who will be affected by a  
12 rate increase shall be entitled to appear and speak in person for a  
13 reasonable amount of time to offer their comments directly to the  
14 board of directors;

15 (ii) customer comments received by the authority prior  
16 to this hearing and transcripts of the public meetings shall be  
17 submitted to the board of directors for their consideration in the  
18 determination of rates; and

19 (7) a meeting at which the board of directors votes on the  
20 proposed rate increase, following notice as set forth in subsection  
21 (A) and completion of the process implemented by the board of  
22 directors pursuant to subsection (B).

23 (C) Rates shall become effective no earlier than ninety days  
24 after the board votes on the proposed rate increases.

25 (D) The board of directors' action pursuant to this section and  
26 its approval of rates are subject to the same standards and remedies  
27 pursuant to Sections 58-31-55, 58-31-56, and 58-31-57, provided  
28 that nothing contained in section may be construed to limit or  
29 derogate from:

30 (1) the board of directors' duties and powers as established  
31 in this chapter; and

32 (2) the state's covenants as provided in Sections 58-31-30  
33 and 58-31-360, and those covenants are hereby reaffirmed.

34 (E) The board of directors shall utilize counsel independent  
35 from the management team of the Public Service Authority and is  
36 authorized to hire independent outside experts and consultants as  
37 necessary to fulfill the board's obligations and duties pursuant to  
38 this section.

39 (F) Notwithstanding the provisions of this section the authority  
40 may place such increased rates and charges into effect on an  
41 interim basis under emergency circumstances such as the  
42 avoidance of default of its obligations and to ensure proper  
43 maintenance of its system. Said increased rates and charges shall

1 be subject to prospective rate adjustment in accordance with the  
2 terms of this section. Provided further, that the authority may  
3 implement experimental rates on an interim basis for the purpose  
4 of developing improved rate offerings for customers. These  
5 experimental rates will be enacted for no longer than five years and  
6 will apply to no more than five percent of the affected customer  
7 class.

8 (G) Appeals of decisions by the board of directors to approve  
9 an increase in rates shall be a direct appeal to the South Carolina  
10 Supreme Court, and such appeal only shall be as to the Public  
11 Service Authority's adherence to the rates process set forth above.  
12 The Supreme Court shall not have the authority to set the Public  
13 Service Authority's rates or compel it to set specified rates, and  
14 such authority shall remain exclusively with the Public Service  
15 Authority's board of directors.

16  
17 Section 58-31-720. The board of directors shall establish a set of  
18 pricing principles and take such principles into consideration when  
19 establishing new rates. The Authority shall maintain and continue  
20 to offer, subject to potential improvements that will benefit  
21 affected customers, all the firm and nonfirm residential,  
22 commercial, and industrial rate schedules and rider options and  
23 rate designs, such as firm, time-of-use, interruptible and economy  
24 power, offered by the Authority as of the date of this Act.

25  
26 Section 58-31-730. The Public Service Authority shall submit to  
27 the Office of Regulatory Staff a pricing report each year, and its  
28 report must include an analysis of the adherence to the pricing  
29 principles required in Section 58-31-720, the current and projected  
30 electric customer pricing and a comparison of pricing to inflation,  
31 and to other utilities, and an analysis of the rates by customer  
32 classes and the fair allocation of costs among customer classes. A  
33 copy of this annual report must be provided to the Consumer  
34 Advocate. If the Public Service Authority's price of electricity is  
35 projected to rise above the rate of inflation, then it must include in  
36 its annual pricing report a detailed explanation of all cost saving  
37 efforts being undertaken and planned to mitigate costs. After its  
38 review, the Office of Regulatory Staff shall issue comments on the  
39 Public Service Authority's annual pricing report.”

40  
41 G. Chapter 31, Title 58 of the 1976 Code is amended by adding:

42  
43

“Article 9

[ ]

1  
2 Revenue Obligations  
3

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

13 (1) the authority's system-wide goals and objectives for  
14 capital spending over the next three years;

15 (2) the amount and character of new revenue obligation  
16 securities proposed to be issued in support of its system-wide goals  
17 and objectives;

18 (3) the purpose for which they are to be issued;

19 (4) the authority's financial condition, to include all current  
20 credit ratings and debt outstanding; and

21 (5) the status of any ongoing projects for which securities  
22 are proposed to be issued.

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

28 (1) whether the purpose of the issued revenue obligation  
29 securities is prudent; and

30 (2) whether the issuance of new debt securities is supported:

31 (a) the project plans, in the case of a new project; or

32 (b) the current status of the project, in the case of an  
33 ongoing project; or

34 (c) the value of the equipment to be purchased, in the case  
35 of equipment. To the extent that the commission approves the  
36 issuance of such new revenue obligation securities, it must grant to  
37 the authority a certificate of authority stating:

38 (i) the amount of revenue obligation securities the  
39 authority is authorized to issue; and

40 (ii) the projects to be funded and the equipment to be  
41 acquired therewith.

42 (C) Nothing herein contained shall be construed to impose or  
43 imply any guaranty or obligation as to the securities on the part of

1 the State or any agency thereof, nor shall the commission, by  
2 virtue of the approval of the issuance of such securities, be deemed  
3 to be required to prescribe or approve any rate for the reason that  
4 such rate may be necessary to provide funds reasonably sufficient  
5 to retire such securities or the interest thereon.

6 (D) All revenue obligation securities approved by the  
7 commission for issuance need not be issued by the authority  
8 immediately, and the securities may be issued by the authority  
9 across multiple series and over the term of the authority's  
10 three-year capital spending plan. Notwithstanding the foregoing,  
11 the authority shall not issue revenue obligation securities above the  
12 approved amount before receiving approval from the commission."

13

14 H. Sections 58-27-160, 58-27-190, 58-27-200, 58-27-210, and  
15 58-27-220 of the 1976 Code are amended to read:

16

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

21

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

38

39 Section 58-27-200. In the performance of its duties under this  
40 chapter, an employee or agent of the Office of Regulatory Staff  
41 may inspect or make copies of all income, property, or other tax  
42 returns, reports, or other information filed by electrical utilities and  
43 the South Carolina Public Service Authority with or otherwise

1 obtained by any other department, commission, board, or agency  
2 of the state government. All departments, commissions, boards, or  
3 agencies of the state government must permit an employee or  
4 agent of the Office of Regulatory Staff to inspect or make copies  
5 of all information filed by electrical utilities with or otherwise  
6 obtained by the department, commission, board, or agency of the  
7 state government.  
8

9 Section 58-27-210. Whenever it shall appear that any electrical  
10 utility, electric cooperative, the South Carolina Public Service  
11 Authority, or consolidated political subdivision is failing or  
12 omitting, or about to fail or omit, to do anything required of it by  
13 law or by order of the commission or is doing, or about to do  
14 anything or permitting or about to permit anything to be done  
15 contrary to or in violation of law or of any order of the  
16 commission, an action or proceeding shall be prosecuted in any  
17 court of competent jurisdiction in the name of the Office of  
18 Regulatory Staff for the purpose of having such violation or  
19 threatened violation discontinued or prevented, either by  
20 mandamus, injunction, or other appropriate relief, and in such  
21 action or proceeding, it shall be permissible to join such other  
22 persons, corporations, municipalities, or consolidated political  
23 subdivisions as parties thereto as may be reasonably necessary to  
24 make the order of the court in all respects effective. The  
25 commission must not be a party to any action.  
26

27 Section 58-27-220. In addition to the foregoing expressly  
28 enumerated powers, the Office of Regulatory Staff must enforce,  
29 execute, administer, and carry out the provisions of this chapter  
30 relating to the powers, duties, limitations, and restrictions imposed  
31 upon electrical utilities and the South Carolina Public Service  
32 Authority by this chapter or any other provisions of the law of this  
33 State regulating electrical utilities and the South Carolina Public  
34 Service Authority.”  
35  
36

37 I. Article 1, Chapter 31, Title 58 of the 1976 Code is amended  
38 by adding:  
39

40 “Section 58-31-25. After the effective date of this section, major  
41 utility facilities, as defined in Section 58-33-20(2), of the Public  
42 Service Authority as proposed by the authority must be submitted  
43 to the Public Service Commission for approval and determined in

1 the manner provided by Articles 1, 3, 5, and 7 of Chapter 33, Title  
2 58. In addition to complying with the requirements of Articles 1, 3,  
3 5, and 7 of Chapter 33, Title 58, the decision of the commission to  
4 approve a request by the authority to construct a major utility  
5 facility also must comply with Sections 58-31-295, 58-31-296, and  
6 58-37-40.”

7  
8 J. Section 58-33-20 of the 1976 Code is amended to read:

9  
10 “Section 58-33-20. (1) The term ‘commission’ means Public  
11 Service Commission.

12 (2) The term ‘major utility facility’ means:

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

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

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

31 (4) The term ‘municipality’ means any county or municipality  
32 within this State.

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

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

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

4 (8) The term ‘certificate’ means a certificate of environmental  
5 compatibility and public convenience and necessity.

6 (9) The term ‘regulatory staff’ means the executive director or  
7 the executive director and the employees of the Office of  
8 Regulatory Staff.”  
9

10 Article 1, Chapter 33, Title 58 of the 1976 Code is amended by  
11 adding:  
12

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

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

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

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

38 (3) The commission shall consider any previous analysis  
39 performed pursuant to Section 58-31-295, Section 58-31-296, or  
40 Section 58-37-40 in acting upon any petition by the Public Service  
41 Authority pursuant to this section. The commission shall also take  
42 into account the Public Service Authority’s resource and fuel  
43 diversity, reasonably anticipated future operating costs,

1 arrangements with other electric utilities for interchange of power,  
2 pooling of plants, purchase of power and other alternative methods  
3 for providing reliable, efficient, and economical electric service.  
4 (B) The Public Service Authority shall file an estimate of  
5 construction costs in such detail as the commission may require.  
6 No certificate shall be granted unless the commission has approved  
7 the estimated construction costs and made a finding that  
8 construction will be consistent with the authority's commission  
9 approved plan for expansion of electric generating capacity.  
10  
11 Article 1, Chapter 31, Title 58 of the 1976 Code is amended by  
12 adding:  
13  
14 Section \_\_\_\_:  
15 (A) For purposes of this section:  
16 (1) The term "major utility facility" means:  
17 (a) electric generating plant and associated facilities designed for,  
18 or capable of, operation at a capacity of more than seventy-five  
19 megawatts.  
20 (b) an electric transmission line and associated facilities of a  
21 designed operating voltage of one hundred twenty-five kilovolts or  
22 more; provided, however, that the words "major utility facility"  
23 shall not include electric distribution lines and associated facilities.  
24 (B) The Public Service Authority may not enter into a contract for  
25 the acquisition of a major utility facility or contract for the  
26 purchase of power with a duration longer than five years without  
27 approval of the Public Service Commission of South Carolina,  
28 provided that the approval is required only to the extent the  
29 transaction is not subject to the exclusive jurisdiction of the  
30 Federal Energy Regulatory Commission or any other federal  
31 agency.  
32 (C) (1) In acting upon any petition by the Public Service Authority  
33 for approval of an acquisition of a major utility facility, as defined  
34 by subsection(A)(1)(a), or purchases of power with a duration  
35 longer than five years, the Public Service Authority must prove by  
36 a preponderance of the evidence that the acquisition of the  
37 generating resources or purchases of power constitutes a more cost  
38 effective means for serving direct serve and wholesale customers  
39 than other available long-term power supply alternatives and  
40 provides less ratepayer risk while maintaining safe and reliable  
41 electric service than other available long term- power supply  
42 alternatives. The commission shall consider any previous analysis  
43 performed pursuant to Section 58-31-295, Section 58-31-296,



1 Section 58-33-180, or Section 58-37-40 in acting upon any petition  
2 by the Public Service Authority pursuant to this section. The  
3 commission shall also take into account the Public Service  
4 Authority's arrangements with other electric utilities for  
5 interchange of power, pooling of plants, purchase of power and  
6 other alternative methods for providing reliable, efficient, and  
7 economical electric service

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

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

20 (E) Upon the receipt of an application, the commission shall  
21 promptly fix a date for the commencement of a public hearing, not  
22 less than sixty nor more than ninety days after the receipt, and shall  
23 conclude the proceedings as expeditiously as practicable. The  
24 commission shall establish notice requirements and proceedings  
25 shall include an opportunity for intervention, discovery, filed  
26 comments or testimony, and an evidentiary hearing.

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

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

36

37 K. Section 58-37-40 of the 1976 Code, as last amended by Act  
38 62 of 2019, is further amended to read:

39

40 "Section 58-37-40. (A) Electrical utilities, electric cooperatives,  
41 ~~and~~ municipally owned electric utilities, and the South Carolina  
42 Public Service Authority must each prepare an integrated resource  
43 plan. An integrated resource plan must be prepared and submitted

1 at least every three years. Nothing in this section may be construed  
2 as requiring interstate natural gas companies whose rates and  
3 services are regulated only by the federal government or gas  
4 utilities subject to the jurisdiction of the commission to prepare  
5 and submit an integrated resource plan.

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

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

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

34 (3) (1) The South Carolina Public Service Authority shall  
35 submit its integrated resource plan to the State Energy Office  
36 commission. The Public Service Authority shall develop a public  
37 process allowing for input from all stakeholders prior to submitting  
38 the integrated resource plan. The integrated resource plan must be  
39 developed in consultation with the electric cooperatives and  
40 municipally owned electric utilities purchasing power and energy  
41 from the Public Service Authority and consider any feedback  
42 provided by retail customers and shall include the effect of  
43 demand-side management activities of the electric cooperatives

1 and municipally owned electric utilities that directly purchase  
2 power and energy from the Public Service Authority or sell power  
3 and energy generated by the Public Service Authority. The  
4 integrated resource plan must be posted on the ~~State Energy~~  
5 ~~Office's~~ commission's website and on the Public Service  
6 Authority's website.

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

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

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

39 (ii) an analysis of any potential cost savings that might  
40 accrue to ratepayers fr om the retirement of remaining coal  
41 generation assets.

42

1 (B)(1) An integrated resource plan shall include all of the  
2 following:  
3 (a) a long-term forecast of the utility's sales and peak  
4 demand under various reasonable scenarios;  
5 (b) the type of generation technology proposed for a  
6 generation facility contained in the plan and the proposed capacity  
7 of the generation facility, including fuel cost sensitivities under  
8 various reasonable scenarios;  
9 (c) projected energy purchased or produced by the utility  
10 from a renewable energy resource;  
11 (d) a summary of the electrical transmission investments  
12 planned by the utility;  
13 (e) several resource portfolios developed with the purpose  
14 of fairly evaluating the range of demand-side, supply-side, storage,  
15 and other technologies and services available to meet the utility's  
16 service obligations. Such portfolios and evaluations must include  
17 an evaluation of low, medium, and high cases for the adoption of  
18 renewable energy and cogeneration, energy efficiency, and  
19 demand response measures, including consideration of the  
20 following:  
21 (i) customer energy efficiency and demand response  
22 programs;  
23 (ii) facility retirement assumptions; and  
24 (iii) sensitivity analyses related to fuel costs,  
25 environmental regulations, and other uncertainties or risks;  
26 (f) data regarding the utility's current generation  
27 portfolio, including the age, licensing status, and remaining  
28 estimated life of operation for each facility in the portfolio;  
29 (g) plans for meeting current and future capacity needs  
30 with the cost estimates for all proposed resource portfolios in the  
31 plan;  
32 (h) an analysis of the cost and reliability impacts of all  
33 reasonable options available to meet projected energy and capacity  
34 needs; and  
35 (i) a forecast of the utility's peak demand, details  
36 regarding the amount of peak demand reduction the utility expects  
37 to achieve, and the actions the utility proposes to take in order to  
38 achieve that peak demand reduction.  
39 (2) An integrated resource plan may include distribution  
40 resource plans or integrated system operation plans.  
41 (C)(1) The commission shall have a proceeding to review each  
42 electrical utility's and the Public Service Authority's integrated  
43 resource plan. As part of the integrated resource plan filing, the

1 commission shall allow intervention by interested parties. The  
2 commission shall establish a procedural schedule to permit  
3 reasonable discovery after an integrated resource plan is filed in  
4 order to assist parties in obtaining evidence concerning the  
5 integrated resource plan, including the reasonableness and  
6 prudence of the plan and alternatives to the plan raised by  
7 intervening parties. No later than three hundred days after an  
8 electrical utility files an integrated resource plan, the commission  
9 shall issue a final order approving, modifying, or denying the plan  
10 filed by the electrical utility or the Public Service Authority.

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

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

30 (3) If the commission modifies or rejects an electrical  
31 utility's or Public Service Authority's integrated resource plan, the  
32 electrical utility or Public Service Authority, within sixty days  
33 after the date of the final order, shall submit a revised plan  
34 addressing concerns identified by the commission and  
35 incorporating commission-mandated revisions to the integrated  
36 resource plan to the commission for approval. Within sixty days of  
37 the electrical utility's or Public Service Authority's revised filing,  
38 the Office of Regulatory Staff shall review the electrical utility's or  
39 Public Service Authority's revised plan and submit a report to the  
40 commission assessing the sufficiency of the revised filing. Other  
41 parties to the integrated resource plan proceeding also may submit  
42 comments. No later than sixty days after the Office of Regulatory  
43 Staff report is filed with the commission, the commission at its

1 discretion may determine whether to accept the revised integrated  
2 resource plan or to mandate further remedies that the commission  
3 deems appropriate.

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

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

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

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

36  
37 L. All lawful expenses and charges incurred by the Public  
38 Service Commission and the Office of Regulatory Staff in the  
39 administration of this act and in performance of its duties  
40 thereunder shall be defrayed by assessments made by the  
41 Comptroller General against the Public Service Authority in the  
42 year ending on the thirtieth day of June preceding that on which  
43 the assessment is made which is due and payable on or before July

1 fifteenth. The Public Service Commission and the Office of  
2 Regulatory Staff shall certify to the Comptroller General annually  
3 on or before August first the amounts to be assessed in the format  
4 approved by the Comptroller General.

5

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Part IV

7

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

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