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Indicates New Matter

AMENDED

April 3, 2019

**H. 4261**

Introduced by Reps. McCoy, G.M. Smith, Ott, Sandifer, Simrill, Lucas, Jefferson, R. Williams, Fry and Ballentine

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Read the first time March 19, 2019.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑31‑25 SO AS TO PROVIDE THAT MAJOR UTILITY FACILITIES OF THE PUBLIC SERVICE AUTHORITY MUST BE SUBMITTED TO THE PUBLIC SERVICE COMMISSION FOR APPROVAL IN THE MANNER DETERMINED BY LAW; BY ADDING ARTICLE 7 TO CHAPTER 31, TITLE 58 SO AS TO ESTABLISH CERTAIN MANDATORY PROCEDURES THAT THE PUBLIC SERVICE AUTHORITY MUST FOLLOW PRIOR TO 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; BY ADDING ARTICLE 9 TO CHAPTER 31, TITLE 58 SO AS TO CREATE THE “SOUTH CAROLINA PUBLIC SERVICE AUTHORITY REVIEW AND OVERSIGHT COMMISSION”, AND TO DEFINE THE COMMISSION’S COMPOSITION, POWERS, DUTIES, AND RESPONSIBILITIES; TO AMEND SECTION 58‑31‑20, RELATING TO THE PUBLIC SERVICE AUTHORITY BOARD OF DIRECTORS AND ITS ADVISORY BOARD, SO AS TO REQUIRE THE PUBLIC SERVICE AUTHORITY TO SUBMIT ANNUAL AUDITS TO THE ADVISORY BOARD AND TO THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY REVIEW AND OVERSIGHT COMMISSION, AND TO REQUIRE THE LIVE STREAMING OF BOARD AND COMMITTEE MEETINGS; TO AMEND SECTION 58‑31‑30, RELATING TO THE POWERS OF THE PUBLIC SERVICE AUTHORITY, SO AS TO REQUIRE THE PUBLIC SERVICE COMMISSION TO APPROVE THE PUBLIC SERVICE AUTHORITY’S CONSTRUCTION OF ANY MAJOR UTILITY FACILITY; AND TO AMEND SECTION 58‑33‑20, RELATING TO DEFINITIONS APPLICABLE TO CHAPTER 33, TITLE 58, SO AS TO REVISE THE DEFINITIONS OF “MAJOR UTILITY FACILITY” AND “PERSON”.

Amend Title To Conform

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

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

“Section 58‑31‑25. After the effective date of this section, major utility facilities, as defined in Section 58‑33‑20(2), of the Public Service Authority as proposed by the authority must be submitted to the Public Service Commission for approval and determined in the manner provided by Articles 1, 3, 5, and 7 of Chapter 33, Title 58.”

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

“Article 7

Retail Rates Process

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

(A) The authority shall provide notice to customers who will be affected by a rate increase at least sixty days before the board of directors’ vote on a proposed rate increase.

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

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

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

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

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

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

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

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

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

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

(i) review the proposed rate schedules;

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

(iii) submit written comments;

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

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

(3) Contemporaneously with notice to customers, the authority shall provide notice of proposed rate increases to the Office of Regulatory Staff.

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

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

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

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

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

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

(2) a written report of management’s recommendations concerning proposed rate adjustments;

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

(a) the authority also shall provide customers who will be affected by a rate increase access to proposed rate schedules and written findings and analysis of employees and consultants retained by the authority that support the proposed rate increases, such materials to be made available at a physical location, at public meetings, and via Santee Cooper’s website; and

(b) customers who will be affected by a rate increase may submit written comments to be considered by the board of directors before any vote concerning a proposed rate increase;

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

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

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

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

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

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

(5) submission by the Office of Regulatory Staff of written comments and supporting documentation in the same manner as customers;

(6) a meeting of the board of directors, separate from and at least thirty days prior to the board of directors’ scheduled vote on proposed rate increases, at which the board of directors shall receive management’s recommendation concerning proposed rate increases, the proposed rate schedules, documentation supporting the same, written comments, and transcripts of the public meetings provided that:

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

(b) customer comments received by the authority prior to this meeting and transcripts of the public meetings shall be submitted to the board of directors for their consideration in the determination of rates;

(c) submissions from the Office of Regulatory Staff shall be provided to the board of directors for their consideration in the determination of rates; and

(d) the authority shall cause a transcript of this meeting to be prepared and maintained as a public record; and

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

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

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

(1) the board of directors’ duties and powers as established in Chapter 31, Title 58; and

(2) the state’s covenants as provided in Sections 58‑31‑30 and 58‑31‑360, and those covenants are hereby reaffirmed.”

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

“Article 9

South Carolina Public Service Authority Review and Oversight Commission

Section 58‑31‑910. (A) There is hereby established a commission to be known as the ‘South Carolina Public Service Authority Review and Oversight Commission’, hereinafter referred to as the commission, which must exercise the powers and fulfill the duties described in this article.

(B) The commission is composed of the following ten members:

(1) from the Senate:

(a) the Chairman of the Finance Committee or his designee;

(b) the Chairman of the Judiciary Committee or his designee;

(c) the Chairman of the Fish, Game and Forestry Committee or his designee; and

(d) two members appointed by the President, one member upon the recommendation of the Senate Majority Leader and one member upon the recommendation of the Senate Minority Leader;

(2) from the House of Representatives:

(a) the Chairman of the Ways and Means Committee or his designee;

(b) the Chairman of the Labor, Commerce and Industry Committee or his designee;

(c) the Chairman of the Agriculture, Natural Resources and Environmental Affairs Committee or his designee; and

(d) two members of the House of Representatives appointed by the Speaker of the House of Representatives.

(C) In making appointments to the commission, race, gender, and other demographic factors, such as residence in rural or urban areas, must be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

(D) The commission must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. A quorum consists of six members.

Section 58‑31‑920. (A) The commission has the following powers and duties:

(1) to conduct a biennial oversight review of the authority and its operations in compliance with the following standards:

(a) the oversight reviews must consider whether the authority is improving the quality of life for South Carolinians by providing low cost, reliable power in this State in an efficient, effective manner in accordance with all applicable laws and regulations; and

(b) a written report of the findings from each oversight review must be published in the journals of both houses and made available on the General Assembly’s Internet website and transmitted to the Governor and the board; and

(2) to undertake any additional reviews, studies, or evaluations as the commission considers necessary.

(B) Reviews conducted pursuant to this article shall include, but are not limited to:

(1) transmission and distribution reliability;

(2) generation sources and availability;

(3) customer surveys;

(4) economic development;

(5) lake management;

(6) financial reports including operating budgets, outstanding debt, existing and proposed debt issuances, debt defeasance, debt/equity ratios, and bond ratings;

(7) executive organizational structure and compensation, to include retirement compensation; and

(8) status of planned and ongoing capital projects.

(C) The South Carolina Public Service Authority board of directors and president/CEO have a duty to disclose material operational issues that impact customer rates to the commission.

Section 58‑31‑930. State agencies must cooperate fully with commission requests for assistance in carrying out its responsibilities and duties as established in this article.

Section 58‑31‑940. (A) The oversight report required by this article shall include, but not be limited to, information regarding the following:

(1) transmission and distribution reliability;

(2) generation sources and availability;

(3) customer surveys;

(4) economic development reports;

(5) lake management reports;

(6) financial reports including operating budgets, outstanding debt, existing and proposed debt issuances, debt defeasance, debt/equity ratios, and bond ratings;

(7) executive organizational structure and compensation, to include retirement compensation; and

(8) status of planned and ongoing capital projects.

Section 58‑31‑950. The commission shall use clerical and professional employees of the General Assembly for its staff, who must be made available to the commission. The commission may employ or retain other professional staff if it determines that additional personnel are necessary to fulfill the duties and responsibilities as provided in this article and as may be funded in the legislative appropriation of the annual general appropriations act. The Public Service Authority shall pay all reasonable staff related expenses associated with the commission’s activities.”

SECTION 4. 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 or elected by the General Assembly as follows: one from each congressional district of the State to be elected by the General Assembly; one from each of the counties of Horry, Berkeley, and Georgetown who reside in authority territory and are customers of the authority to be appointed by the Governor; and two from the State at large, to be appointed by the Governor, one of whom must be chairman. Two of the gubernatorially appointed 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. Each director shall serve for a term of ~~seven~~ four years, except as provided in this section. At the expiration of the term of each gubernatorially appointed 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~~ four years or until his successor has been appointed and qualified. In the event of a gubernatorially appointed director vacancy due to death, resignation, or otherwise, the Governor must appoint the director’s successor, with the advice and consent of the Senate, and the successor‑director shall hold office for the unexpired term. ~~A director may not receive a salary for services as director until the authority is in funds, but~~ Each director must be paid his actual expense in the performance of his duties~~,~~. ~~the actual expense to be advanced from the contingent fund of the Governor until the time the Public Service Authority is in funds, at which time the contingent fund must be reimbursed. After the Public Service Authority is in funds,~~ The compensation and expenses of each member of the board must be paid from ~~these~~ Public Service Authority funds, and the compensation and expenses must be fixed by the advisory board established in this section. Members of the board of directors may be removed for cause, pursuant to Section 1‑3‑240(C), by the Governor of the State, the advisory board, or a majority thereof. A member of the General Assembly of the State of South Carolina or a member of his immediate family is not eligible for appointment as Director of the Public Service Authority ~~during the term of his office.~~ while the member is serving in the General Assembly; nor shall a member of the General Assembly or a member of his immediate family be appointed to the authority for a period of four years after the member either:

(1) ceases to be a member of the General Assembly; or

(2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

No more than two members from the same county may serve as directors at any time.

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

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

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

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

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

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

(D) In addition to the qualifications provided in subsection (C), each member of the board of directors of the Public Service Authority must have the following qualifications:

(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) water and wastewater issues;

(c) finance, economics, and statistics;

(d) accounting;

(e) engineering; or

(f) law.

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

(F)(1) The terms of all twelve present members of the board of directors of the Public Service Authority serving in office on the effective date of this subsection expire on the effective date of this subsection. However, the present members of the board shall continue to serve in a holdover capacity after the effective date of this subsection until either reappointed or until their successors are appointed in the manner provided in this section qualify and take office.

(2) The terms of all members of the board appointed to succeed the present members of the board whose terms expire as provided in item (1), notwithstanding any other provision of this section, must be for four years each and until their successors are appointed and qualify.

(3) Gubernatorially appointed members of the board, notwithstanding their terms of office or another provision of law, may be removed or replaced by the Governor at any time at the Governor’s sole discretion.

(G) In making appointments to the authority, the Governor shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographic and political balance of the appointments, and shall strive to ensure that the membership of the authority will represent, to the greatest extent possible, all segments of the population of the State.

(H) A member of the Public Service Authority board of directors may not:

(1) solicit, request, receive, or accept anything of value from the Public Service Authority in addition to the member’s compensation for serving as a member of the board of directors; or

(2) have a business relationship with the Public Service Authority that is distinct from or in addition to the member’s service on the board of directors.

(I) For purposes of this section, ‘anything of value’ shall have the same meaning as provided in Section 8‑13‑100(1).

(J) The South Carolina Public Service Authority must provide live‑streamed coverage whenever practicable of all meetings of the Committees and Board of Directors to ensure transparency and access for the public. Telephonic meetings may be live‑streamed through use of only audio if no Board Members are physically present at the telephonic meetings. The meetings shall be recorded and archived and made available on the South Carolina Public Service Authority’s website along with any agendas and any documents presented during the open portion of meetings. If a meeting cannot be live‑streamed, then the authority must make transcripts available on the authority’s website within fifteen business days.

(K) The General Assembly must provide for the election of seven directors as follows:

(1) One director must be elected from each of the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census.

(2) The review committee shall nominate for election all candidates found qualified.

(3) Whenever an election is to be held by the General Assembly in joint session to elect a person to serve on the board, the review committee must conduct its screening pursuant to the provisions of Section 2‑20‑10, et seq.; however, Section 2‑20‑40 is not applicable to a screening by the review committee.

(4) In order to be nominated for a seat on the board, candidates must meet the requirements of this section. In screening candidates for the commission and making its findings, the review committee must seek to find the best qualified people by giving due consideration to:

(a) ability, dedication, compassion, common sense, and integrity of the candidates; and

(b) the race and gender of the candidates and other demographic factors to assure nondiscrimination to the greatest extent possible of all segments of the population of the State.

(5) The Governor may fill vacancies 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 board 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.”

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