~~Indicates Matter Stricken~~
Indicates New Matter

AS PASSED BY THE SENATE
May 8, 2019

H. 3659

Introduced by Reps. McCoy, Rose, Ballentine, Wooten, W. Newton, Mack, Sottile, Clary, Erickson, Herbkersman, Pendarvis, Stavrinakis, Ott, Gilliard, Bennett, Caskey, Murphy, Bernstein, Mace, Young, Garvin, Cobb-Hunter, Norrell, Thigpen, Hyde, Jefferson, R. Williams, Funderburk, Huggins, Anderson, Hardee, Cogswell, Tallon, Sandifer, West, Gagnon, Forrester, Blackwell, Spires, Calhoon, B. Cox, Elliott, Morgan, Loftis, Bradley, Willis, Toole, Henderson-Myers, Daning and B. Newton

S. Printed 5/8/19--S.
Read the first time February 26, 2019.

[3659-1]

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCDSSC NO-29-184-EE Page 1 of 33

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO 2019-184-EE Page 2 of 33

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA ENERGY FREEDOM ACT" BY ADDING SECTION 58-27-845 SO AS TO ENUMERATE SPECIFIC RIGHTS OWED TO EVERY ELECTRICAL UTILITY CUSTOMER IN SOUTH CAROLINA; BY ADDING SECTION 58-27-2350 SO AS TO PROVIDE FOR JUDICIAL REVIEW OF VIOLATIONS OF AN ELECTRICAL UTILITY CUSTOMER'S RIGHTS; BY ADDING CHAPTER 41 TO TITLE 58 SO AS TO DEFINE RELEVANT TERMS, TO REQUIRE PERIODIC HEARINGS TO REVIEW AND APPROVE ELECTRICAL UTILITIES' AVOIDED COST METHODOLOGIES, STANDARD OFFERS, FORM CONTRACTS, AND COMMITMENT TO SELL FORMS, AND TO ESTABLISH POLICIES AND PROCEDURES FOR THESE HEARINGS, TO REQUIRE EACH ELECTRICAL UTILITY TO FILE A VOLUNTARY RENEWABLE ENERGY PROGRAM FOR THE COMMISSION'S REVIEW AND APPROVAL AND TO ENUMERATE PROGRAM REQUIREMENTS, TO REQUIRE EACH ELECTRICAL UTILITY TO ESTABLISH A NEIGHBORHOOD COMMUNITY SOLAR PROGRAM PLAN WITH A GOAL TO EXPAND ACCESS TO SOLAR ENERGY TO LOW-INCOME COMMUNITIES AND CUSTOMERS, AND TO ENUMERATE PROGRAM REQUIREMENTS; TO AMEND SECTION 58-4-10, AS AMENDED, RELATING TO THE OFFICE OF REGULATORY STAFF, SO AS TO REVISE THE DEFINITION OF "PUBLIC INTEREST"; TO AMEND SECTION 58-27-460, RELATING TO THE PROMULGATION OF STANDARDS FOR INTERCONNECTION OF RENEWABLE ENERGY, SO AS TO, AMONG OTHER THINGS, INCREASE THE MAXIMUM GENERATION CAPACITY OF THOSE RENEWABLE ENERGY FACILITIES FOR WHICH THE PUBLIC SERVICE COMMISSION SHALL PROMULGATE

INTERCONNECTION STANDARDS; TO AMEND SECTION 58-27-2610, RELATING TO LEASES OF RENEWABLE ELECTRIC GENERATION FACILITIES, SO AS TO, AMONG OTHER THINGS, REMOVE THE SOLAR LEASING CAP; TO AMEND SECTION 58-33-110, RELATING TO REQUIRED PRECONSTRUCTION CERTIFICATIONS FOR MAJOR UTILITY FACILITIES, SO AS TO PROVIDE THAT A PERSON MAY NOT BEGIN CONSTRUCTION OF A MAJOR UTILITY FACILITY WITHOUT FIRST HAVING MADE A DEMONSTRATION THAT THE FACILITY HAS BEEN SELECTED THROUGH AN INDEPENDENTLY MONITORED, ALL-SOURCE, PROCUREMENT PROCESS OVERSEEN BY AN INDEPENDENT EVALUATOR CHOSEN BY THE OFFICE OF REGULATORY STAFF; TO AMEND SECTION 58-33-140, RELATING TO THE PARTIES TO CERTIFICATION PROCEEDINGS, SO AS TO PROVIDE THAT THE PARTIES SHALL INCLUDE ANY INDEPENDENT POWER PRODUCER THAT IS PROPOSING AN ALTERNATIVE TO THE MAJOR UTILITY FACILITY; TO AMEND SECTION 58-37-40, RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO PROVIDE FOR THE EVALUATION OF THE ADOPTION OF RENEWABLE ENERGY, ENERGY EFFICIENCY, AND DEMAND RESPONSE IN INTEGRATED RESOURCE PLANS AND TO PROVIDE FOR CERTAIN REPORTING REQUIREMENTS; TO AMEND SECTION 58-40-10, RELATING TO DEFINITIONS APPLICABLE TO NET ENERGY METERING, SO AS TO REVISE THE DEFINITION OF "CUSTOMER-GENERATOR"; AND TO AMEND SECTION 58-40-20, RELATING TO NET ENERGY METERING, SO AS TO REQUIRE ELECTRICAL UTILITIES TO MAKE NET ENERGY METERING AVAILABLE TO CUSTOMER-GENERATORS UNTIL THE TOTAL INSTALLED NAMEPLATE GENERATING CAPACITY OF NET ENERGY METERING SYSTEMS EQUALS AT LEAST TWO PERCENT OF THE PREVIOUS FIVE-YEAR AVERAGE OF THE ELECTRICAL UTILITY'S SOUTH CAROLINA RETAIL PEAK DEMAND AND TO PROVIDE FOR A SUCCESSOR NET ENERGY METERING TARIFF.

Amend Title To Conform

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

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC - ND-2019-184-EE Page 6 of 33

SECTION 1. Title 58 of the 1976 Code is amended by adding:

"CHAPTER 41

Renewable Energy Programs

Section 58-41-05. The commission is directed to address all renewable energy issues in a fair and balanced manner, considering the costs and benefits to all customers of all programs and tariffs that relate to renewable energy and energy storage, both as part of the utility's power system and as direct investments by customers for their own energy needs and renewable goals. The commission also is directed to ensure that the revenue recovery, cost allocation, and rate design of utilities that it regulates are just and reasonable and properly reflect changes in the industry as a whole, the benefits of customer renewable energy, energy efficiency, and demand response, as well as any utility or state-specific impacts unique to South Carolina which are brought about by the consequences of this act.

Section 58-41-10. As used in this chapter:

(1) 'AC' means alternating current as measured at the point of interconnection of the small power producer's facility to the interconnecting electrical utility's transmission or distribution system.

(2) 'Avoided costs' means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

(3) 'Commission' means the South Carolina Public Service Commission.

(4) 'Electrical utility' is defined as set forth in Section 58-27-10(7), provided, however, that electrical utilities serving less than one hundred thousand customer accounts must be exempt from the provisions of this chapter. A renewable energy supplier participating in an electrical utility's voluntary renewable energy program pursuant to this chapter must not be considered an electrical utility for purposes of this chapter.

(5) 'Eligible customer' means a retail customer with a new or existing contract demand greater than or equal to one megawatt at a single-metered location or aggregated across multiple-metered locations.

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO 2019-184-E Page 4 of 33

(6) 'Generation credit' means a credit applied by an electrical utility to the bill of a participating customer that is equal to the value of the energy and capacity avoided by the electrical utility as a result of procuring energy and capacity from a renewable energy facility.

(7) 'Participating customer' means an eligible customer that elects to have a portion or all of its electricity needs supplied by a voluntary renewable energy program.

(8) 'Participating customer agreement' means an agreement between a participating customer, its electrical utility, and the renewable energy supplier establishing each party's rights and obligations under the electrical utility's voluntary renewable energy program.

(9) 'Power purchase agreement' means an agreement between an electrical utility and a small power producer for the purchase and sale of energy, capacity, and ancillary services from the small power producer's qualifying small power production facility.

(10) 'PURPA' means the Public Utility Regulatory Policies Act of 1978, as amended.

(11) 'Renewable energy contract' means a power purchase agreement between an electrical utility and a renewable energy supplier that commits the parties to participating in an electrical utility's voluntary renewable energy program for the purchase and sale of energy and capacity.

(12) 'Renewable energy facility' means a facility for the production of electrical energy that utilizes a renewable generation resource as defined in Section 58-39-120(F), that is placed in service after the effective date of this chapter, and for which costs are not included in an electrical utility's rates.

(13) 'Renewable energy supplier' means the owner or operator of a renewable energy facility, including the affiliate of an electrical utility that contracts with a participating customer.

(14) 'Small power producer' means a person or corporation owning or operating a 'qualifying small power production facility' as defined in 16 U.S.C. Section 796, as amended.

(15) 'Standard offer' means the avoided cost rates, power purchase agreement, and terms and conditions approved by the commission and applicable to purchases of energy and capacity by electrical utilities as provided in this chapter from small power producers up to two megawatts AC in size.

(16) 'Voluntary renewable energy program' means a tariff filed with the commission by an electrical utility that enables a participating commercial or industrial customer to receive and pay for electric service, that reflects the program cost, and that includes

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCDPSC ND-2019-184-EE Page 5 of 33

the environmental attributes specified in the participating customer agreement and renewable energy contract, including a generation credit for such renewable energy, from the electrical utility pursuant to the terms of the tariff.

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

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

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

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

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC - ND-2019-184-EE Page 6 of 33

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

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

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

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

(D) A small power producer shall have the right to sell the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

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

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCDPSC NO-29-194-EE Page 7 of 33

(2) The commission is authorized to open a generic docket for the purposes of creating programs for the competitive procurement of energy and capacity from renewable energy facilities by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

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

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

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

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including but not limited to, a reduction in the contract price relative to the ten year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to Section 58-41-20(A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCDPSC NO 2019-184-E Page 8 of 33

(2) Once an electrical utility has executed interconnection agreements and power purchase agreements with qualifying small power production facilities located in South Carolina with an aggregate nameplate capacity equal to twenty percent of the previous five-year average of the electrical utility's South Carolina retail peak load, that electrical utility shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with the terms, conditions, rates, and terms of length for contracts as determined by the commission in a separate docket or in a proceeding conducted pursuant to Section 58-41-20(A). The commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state's policy of encouraging renewable energy.

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

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

(I) The commission is authorized to employ, through contract or otherwise, third-party consultants and experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third-party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the

ACCEPTED FOR PROCESSING - 2019 May 23 10:22AM SCPSC - ND-2019-184-EE Page 9 of 33

report are intended to be used by the commission along with all other evidence submitted during the proceeding, to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third-party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility during the development of the report and whether there were any material information requests that were not adequately fulfilled by the electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. The commission and the Office of Regulatory Staff may not hire the same third-party consultant or expert in the same proceeding or to address the same or similar issues in different proceedings.

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

Section 58-41-30. (A) Within one hundred and twenty days of the effective date of this chapter, subject to subsection (F), each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the commission. The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties shall have the right to participate in the proceeding. The commission may periodically hold additional proceedings to update the program. At a minimum, the program shall provide that:

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

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

ACCEPTED FOR PROCESSING - 2019 May 23 10:22AM SCPSC NO 2019-184-E Page 10 of 33

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

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

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

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

(D) A participating customer shall bear the burden of any reasonable costs associated with participating in a voluntary renewable energy program. An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section.

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

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

Section 58-41-40. (A) It is the intent of the General Assembly to expand the opportunity to support solar energy and support access to solar energy options for all South Carolinians, including those who lack the income to afford the upfront investment in solar panels or those who do not own their homes or have suitable rooftops. The General Assembly encourages all electric service providers in this state to consider offering neighborhood community solar programs.

ACCEPTED FOR PROCESSING - 2019 May 23 10:22AM SCPSC NO 2019-184-E Page 11 of 33

(B)(1) Within sixty days after the effective date of this chapter, the commission shall open a docket for each electrical utility to review the community solar programs established pursuant to Act 236 of 2014 and to solicit status information on existing programs from the electrical utilities.

(2) Within one hundred and eighty days after the commission opens the docket pursuant to item (1), the electrical utilities shall update their report on their existing programs and may propose new programs.

(C) Subject to review by the commission, a public utility must be entitled to full and timely cost recovery for all reasonable and prudent costs incurred in implementing and complying with this section. Participating customers shall bear the burden of any reasonable and prudent costs associated with participating in a neighborhood community solar program; however, the commission shall nonetheless promote access to solar energy projects for low and moderate income customers. An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section."

SECTION 2. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-845. (A) The General Assembly finds that there is a critical need to:

(1) protect customers from rising utility costs;

(2) provide opportunities for customer measures to reduce or manage electrical consumption from electrical utilities in a manner that contributes to reductions in utility peak electrical demand and other drivers of electrical utility costs; and

(3) equip customers with the information and ability to manage their electric bills.

(B) Every customer of an electrical utility has the right to a rate schedule that offers the customer a reasonable opportunity to employ such energy and cost saving measures as energy efficiency, demand response, or onsite distributed energy resources in order to reduce consumption of electricity from the electrical utility's grid and to reduce electrical utility costs.

(C) In fixing just and reasonable utility rates pursuant to Section 58-3-140 and Section 58-27-810, the commission shall consider whether rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between cost incurred and benefits

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-20-0184-EE Page 12 of 33

received, and that no one class of customers are unduly burdening another, and that each customer class pays, as close as practicable, the cost of providing service to them.

(D) For each class of service, the commission must ensure that each electrical utility offers to each class of service a minimum of one reasonable rate option that aligns the customer's ability to achieve bill savings with long-term reductions in the overall cost the electrical utility will incur in providing electric service, including, but not limited to time-variant pricing structures.

(E) Every customer of an electrical utility has a right to obtain their own electric usage data in a machine-readable, accessible format to the extent such is readily available. Electrical utilities shall allow customers an electronic means to assent to share the customer's energy usage data with a third-party vendor designated by the customer."

SECTION 3. Section 58-40-10(C) of the 1976 Code is amended to read:

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

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

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

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

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

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

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

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

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO 20-29-1984-EE Page 13 of 33

Laboratories, the federal Energy Regulatory Commission, and any local governing authorities."

SECTION 4. Section 58-40-10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) 'Solar choice metering measurement' means the process, method, or calculation used for purposes of billing and crediting at the commission determined value."

SECTION 5. Section 58-40-20 of the 1976 Code is amended to read:

"Section 58-40-20. ~~(A) Net energy metering rates approved by the commission under the terms of this chapter shall be the exclusive net energy metering rates available to customer-generators. Upon commission approval, such net energy metering rates shall supersede all prior net energy metering rates. Customer-generators whose net energy metering facilities were energized prior to the availability of net energy metering rates approved by the commission under the terms of this chapter may remain in historic net energy metering programs through December 31, 2020.~~

~~(B) An electrical utility shall make net energy metering available to customer-generators on a first-come, first-served basis until the total nameplate generating capacity of net energy metering systems equals two percent of the previous five-year average of the electrical utility's South Carolina retail peak demand. No electrical utility shall be required to approve any application for interconnection from net energy metering customer-generators if the total rated generating capacity of all applications for interconnection from net energy metering customer-generators already approved to date by the electrical utility equals or exceeds two percent of the previous five-year average of the electrical utility's South Carolina retail peak demand.~~

~~(C) If determined to be prudent by the commission, the electrical utility may furnish, install, own, and maintain metering equipment needed to measure the kilowatt-hours purchased by the customer-generator from the utility, the kilowatt-hours generated or delivered to the electrical utility, and, if applicable under the utility's tariffs, to measure the kilowatt demand delivered by the electrical utility to the customer-generator. The electrical utility shall have the right to install special metering and load research devices on the customer-generator's equipment and the right to use the~~

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCDSSC NO 29-184-EE Page 14 of 33

~~customer-generator's communication devices for communication with electrical utility's and the customer-generator's equipment.~~

~~(D) The net electrical energy measurement shall be calculated in the following manner:~~

~~(1) For a customer-generator, an electrical utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;~~

~~(2) If the electricity supplied by the electrical utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the electrical utility in accordance with normal practices for customers in the same rate class;~~

~~(3) Any energy generated by the customer-generator that exceeds the energy supplied by the electrical utility during a billing period shall not be used to offset the nonvolumetric electricity charges for that billing period;~~

~~(4) The utility shall maintain an account of any net excess kWh credits accruing from the customer-generator's excess generation and allow those kWh credits to be used to offset the customer-generator's energy usage during future billing periods. Annually, the utility shall pay the customer-generator for any accrued net excess generation at the utility's avoided cost for qualified facilities, zeroing out the customer-generator's account of net excess kWh credits.~~

~~(E) Each electrical utility shall submit an annual net metering report to the Public Service Commission, with a copy to the Office of Regulatory Staff, including the following information for the previous calendar year:~~

~~(1) the total number of customer-generator facilities;~~

~~(2) the estimated gross generating capacity of its net metered customer-generators;~~

~~(3) the estimated net kilowatt hours received from customer-generators.~~

~~(F) Any and all costs prudently incurred pursuant to the provisions of this chapter by an electrical utility as approved by the commission and any and all commission approved benefits conferred by a customer-generator shall be recoverable by each entity respectively in the electrical utility's rates in accordance with these provisions:~~

ACCEPTED FOR PROCESSING - 2019 May 23 10:22AM SCPSC NO 2019-184-E Page 15 of 33

~~(1) The electrical utility's general rates, tariffs, and any additional monthly charges or credits, in addition to any other charges or credits authorized by law, to recover the costs and confer the benefits of net energy metering shall include such measures necessary to ensure that the electrical utility recovers its cost of providing electrical service to customer-generators and customers who are not customer-generators.~~

~~(2) Any charges or credits prescribed in item (1), and the terms and conditions under which they may be assessed shall be in accordance with a methodology established through the proceeding described in item (4). The methodology shall be supported by an analysis and calculation of the relative benefits and costs of customer generation to the electrical utility, the customer-generators, and those customers of the electrical utility that are not customer-generators.~~

~~(3) Upon approval of the methodology provided for in item (4), each electrical utility shall file its analysis of the net cost to serve customer-generators using the approved methodology and shall propose new net energy metering rates.~~

~~(4) No later than thirty days after the enactment of this act, the commission shall initiate a generic proceeding for purposes of implementing the requirements of this chapter with respect to the net energy metering rates, tariffs, charges, and credits of electrical utilities, specifically to establish the methodology to set any necessary charges and credits as required under items (1) and (2). All interested parties shall be allowed to participate. In its notice initiating such proceeding the commission must require the electrical utilities to propose methodologies required by item (1) and shall allow intervening parties to propose methodologies required by item (2). The Office of Regulatory Staff, pursuant to the requirements of Section 58-4-50, shall represent the public interest in this proceeding and shall serve as a facilitator to resolve disputes and issues between the parties to this proceeding.~~

~~(5) In evaluating the benefits and costs of customer generation as required by item (2), and the methodology for calculating such benefits and costs, the Office of Regulatory Staff may engage third parties with relevant prior experience conducting distributed generation cost-benefit studies. The cost of any experts and consultants engaged by the Office of Regulatory Staff for purposes of this proceeding shall be assessed to the electrical utilities pro rata based on their five-year average of retail peak demand and shall be recoverable by those electrical utilities through the base rate for fuel costs established pursuant to Section 58-27-865.~~

ACCEPTED FOR PROCESSING - 2019 May 23 10:22AM SCPSC NO-29-184-EE Page 16 of 33

~~(6) In the event that the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree such benefits are not then being recovered by the electrical utility in its base rates, then such future benefits shall be deemed an avoided cost and shall be recoverable pursuant to Section 58-27-865 by the electrical utility as an incremental cost of the distributed energy resource program.~~

~~(G) In no event shall the net energy metering provisions of this chapter be construed as allowing customer-generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.~~

~~(H) The commission shall approve an electrical utility's proposed net energy metering rates that meet the requirements of this chapter, provided that the commission has previously approved that electrical utility's application to participate in a distributed energy resource program pursuant to Chapter 39, Title 58.~~

(A) It is the intent of the General Assembly to:

(1) build upon the successful deployment of solar generating capacity through Act 236 of 2014 to continue enabling market-driven, private investment in distributed energy resources across the State by reducing regulatory and administrative burdens to customer installation and utilization of onsite distributed energy resources;

(2) avoid disruption to the growing market for customer-scale distributed energy resources; and

(3) require the commission to establish solar choice metering requirements that fairly allocate costs and benefits to eliminate any cost shift or subsidization associated with net metering to the greatest extent practicable.

(B) An electrical utility shall make net energy metering available to all customer-generators who apply before June 1, 2021, according to the terms and conditions provided to all parties in Commission Order No. 2015-194. Customer-generators who apply for net metering after the effective date of this act but before June 1, 2021, including subsequent owners of the customer-generator facility or premises, may continue net energy metering service as provided for in Commission Order No. 2015-194 until May 31, 2029.

(C) No later than January 1, 2020, the commission shall open a generic docket to:

(1) investigate and determine the costs and benefits of the current net energy metering program; and

ACCEPTED FOR PROCESSING - 2019 May 23 10:20 AM - SCDPSC - NO 2019-184-E - Page 17 of 33

(2) establish a methodology for calculating the value of the energy produced by customer-generators.

(D) In evaluating the costs and benefits of the net energy metering program, the commission shall consider:

(1) the aggregate impact of customer-generators on the electrical utility's long-run marginal costs of generation, distribution, and transmission;

(2) the cost of service implications of customer-generators on other customers within the same class, including an evaluation of whether customer-generators provide an adequate rate of return to the electrical utility compared to the otherwise applicable rate class when, for analytical purposes only, examined as a separate class within a cost of service study;

(3) the value of distributed energy resource generation according to the methodology approved by the commission in Commission Order No. 2015-194;

(4) the direct and indirect economic impact of the net energy metering program to the State; and

(5) any other information the commission deems relevant.

(E) The value of the energy produced by customer-generators must be updated annually and the methodology revisited every five years.

(F)(1) After notice and opportunity for public comment and public hearing, the commission shall establish a 'solar choice metering tariff' for customer-generators to go into effect for applications received after May 31, 2021.

(2) In establishing any successor solar choice metering tariffs, and in approving any future modifications, the commission shall determine how meter information is used for calculating the solar choice metering measurement that is just and reasonable in light of the costs and benefits of the solar choice metering program.

(3) A solar choice metering tariff shall include a methodology to compensate customer-generators for the benefits provided by their generation to the power system. In determining the appropriate billing mechanism and energy measurement interval, the commission shall consider:

(a) current metering capability and the cost of upgrading hardware and billing systems to accomplish the provisions of the tariff;

(b) the interaction of the tariff with time-variant rate schedules available to customer-generators and whether different measurement intervals are justified for customer-generators taking service on a time-variant rate schedule;

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC ND-2019-184-EE Page 18 of 33

(c) whether additional mitigation measures are warranted to transition existing customer-generators; and

(d) any other information the commission deems relevant.

(G) In establishing a successor solar choice metering tariff, the commission is directed to:

(1) eliminate any cost shift to the greatest extent practicable on customers who do not have customer-sited generation while also ensuring access to customer-generator options for customers who choose to enroll in customer-generator programs; and

(2) permit solar choice customer-generators to use customer-generated energy behind the meter without penalty.

(H) The commission shall establish a minimum guaranteed number of years to which solar choice metering customers are entitled pursuant to the commission approved energy measurement interval and other terms of their agreement with the electrical utility.

(I) Nothing in this section, however, prohibits an electrical utility from continuing to recover distributed energy resource program costs in the manner and amount approved by Commission Order No. 2015-914 for customer-generators applying before June 1, 2021. Such recovery shall remain in place until full cost recovery is realized. Electrical utilities are prohibited from recovering lost revenues associated with customer-generators who apply for customer-generator programs on or after June 1, 2021.

(J) Nothing in the section prohibits the commission from considering and establishing tariffs for another renewable energy resource."

SECTION 6. Section 58-27-2610 of the 1976 Code is amended to read:

"Section 58-27-2610. (A) An entity that owns a renewable electric generation facility, located on a premises or residence owned or leased by an eligible customer-generator lessee to serve the electric energy requirements of that particular premises or residence or to enable the customer-generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer-generator lessee's retail electric provider or its designee, shall be permitted to lease such facility exclusively to a customer-generator lessee under a lease, provided that the entity complies with the terms, conditions, and restrictions set forth within this article and holds a valid certificate issued by the Office of Regulatory Staff. An entity owning renewable electric generation facilities in compliance with the terms of this article shall

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO 2019-184-E Page 19 of 33

not be considered an 'electrical utility' under Section 58-27-10 if the renewable electric generation facilities are only made available to a customer-generator lessee for the customer-generator lessee's use on the customer-generator lessee's premises or the residence where the renewable electric generation facilities are located, or for the sale of energy to that customer-generator lessee's retail electric provider or its designee, and pursuant to a lease.

(B) All customer-generator lessees that interconnect renewable electric generation facilities to a retail electric provider's transmission or distribution system must enroll in the applicable rate schedules made available by that retail electric provider~~, subject to the participation limitations set forth therein or in the policy adopted by the retail electric provider not subject to Section 58-40-20(B),~~ and the customer-generator lessee shall otherwise comply with all requirements of Section 58-40-10, et seq., or the policy adopted by the retail electric provider not subject to Section 58-40-10, et seq.

(C) To comply with the terms of this article, each customer-generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve multiple customer-generator lessees or multiple premises or residences.

(D) Any lease of a renewable electric generation facility not entered into pursuant to this article is prohibited. The owner of a renewable electric generation facility subject to any lease entered into outside of this program shall be considered an 'electrical utility' under Section 58-27-10.

(E) This section shall not be construed as allowing any sales of electricity from renewable electric generation facilities directly to any customer of any retail electric provider by the owner. This article shall not be construed as abridging or impairing any existing rights or obligations, established by contract or statute, of retail electric providers to serve South Carolina customers. The electrical output from any renewable electric generation unit leased pursuant to this program shall be the sole and exclusive property of the customer-generator lessee.

(F) An entity and its affiliates that lawfully provide retail electric service to the public may offer leases of renewable generation facilities in those areas or territories where it provides retail electric service. No such provider or affiliate shall offer or enter into leases of renewable generation facilities in areas served by another retail electric provider.

(G) The costs an electrical utility incurs in marketing, installing, owning, or maintaining solar leases through its own leasing

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-29-184-EE Page 20 of 33

programs as a lessor shall not be recovered from other nonparticipating electrical utility customers through rates, provided, however, that an electrical utility and the customer-generator lessees which lease facilities from it may participate on an equal basis with other lessors and lessees in any applicable programs provided pursuant to Chapter 39 of this title and nothing in this section shall prevent the reasonable and prudent costs of a utility's distributed energy resource programs, including the provision of incentives to its own lessees and other allowable costs, from being reflected in a utility's rates as provided for in Chapter 39 or as otherwise permitted under generally applicable regulatory principles.

~~(H) The total installed capacity of all renewable electric generation facilities on a retail electric provider's system that are leased pursuant to this article shall not exceed two percent of the previous five year average of the retail electric provider's South Carolina residential and commercial contribution to coincident retail peak demand and two percent of the previous five year average of the retail electric provider's South Carolina industrial contribution to coincident retail peak demand. A provider may refuse to interconnect with customers where to do so would result in this limitation being exceeded. Every retail electric provider must establish a program for new installations of leased equipment to permit the reservation of capacity on its system including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer-generator lessees may apply for, receive, and hold reservations. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises. Requests for reservations to electrical utilities as defined in Section 58-27-10 shall accompany applications for interconnection of the leased facilities pursuant to Chapter 40, Title 58 and the reservation shall remain in force only so long as the application or permit for interconnection remains active. Electrical utilities as defined in Section 58-27-10 shall submit programs establishing the terms of such reservations to the commission for approval.~~

~~(I) Notwithstanding the provisions of subsection (H), for an electrical utility for which more than fifty percent of the electricity that it generates in South Carolina comes from renewable resources, the total installed capacity of all renewable electric generation facilities on its system that are leased pursuant to this article shall not exceed one-tenth of one percent of the previous five-year average of the electrical utility's South Carolina residential and~~

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC - ND-2019-184-EE Page 21 of 33

~~commercial contribution to coincident retail peak demand and one-tenth of one percent of the previous five-year average of the electrical utility's South Carolina industrial contribution to coincident retail peak demand. Electrical utilities meeting the requirements of this subsection shall not be required to establish a capacity reservation program as required by subsection (H).~~

~~(J)~~(H)(1) The provisions of this Article 23 related to leased generation facilities shall not apply to:

(a) facilities serving a single premises that are not interconnected with a retail electric provider;

(b) facilities owned by customer-generators but financed by a third party; or

(c) facilities used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.

(2) The commission may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities."

SECTION 7. Section 58-37-40 of the 1976 Code is amended to read:

"Section 58-37-40. (A) ~~Electrical utilities and the South Carolina Public Service Authority must prepare integrated resource plans. The South Carolina Public Service Authority and electrical utilities regulated by the Public Service Commission must submit their plans to the State Energy Office. The plan submitted by the South Carolina Public Service Authority must be developed in consultation with electric cooperatives and municipally owned electric utilities purchasing power and energy from the authority and must include the effect of demand-side management activities of electric cooperatives and municipally owned electric utilities which directly purchase power and energy from the authority or sell power and energy which the authority generates. All plans must be submitted every three years and must be updated on an annual basis. The first integrated resource plan of the South Carolina Public Service Authority must be submitted no later than June 30, 1993. An integrated resource plan may be patterned after the integrated resource planning process developed by the Public Service Commission. For electrical utilities subject to the jurisdiction of the commission, submission of their plans as required by the commission constitutes compliance with this section. Nothing in this subsection may be construed as requiring interstate natural gas~~

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC ND-2019-184-EE Page 22 of 33

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

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

(2) ~~(B)~~ Electric cooperatives and municipally-owned electric utilities ~~must~~ shall each submit an integrated resource plans to the State Energy Office. Each integrated resource plan must be posted on the State Energy Office's website. If an electric cooperative or municipally-owned utility has a website, its integrated resource plan must also be posted on its website. ~~whenever they are required by federal law to prepare these plans or if they plan to acquire, by purchase or construction, ownership of additional generating capacity greater than twelve megawatts per unit. An integrated resource plan must be submitted to the State Energy Office by an electric cooperative or municipally owned electric utility twelve months before the acquisition, by purchase or construction, of additional generating capacity in excess of twelve megawatts per unit. For an electric cooperative, submission to the State Energy Office of its plan in a format complying with the then current Rural Electrification Administration regulations constitutes compliance with this section.~~ For distribution electric cooperatives that are members of a cooperative that provides wholesale service, the integrated resource plan may be coordinated and consolidated into a single plan provided that non-shared resources or programs of individual distribution cooperatives are highlighted. Where plan components listed in item (B)(1) and (B)(2) of this section do not apply to a distribution or wholesale cooperative or a municipally owned electric utility as a result of the cooperative or the municipally owned electric utility not owning or operating generation resources, the plan may state that fact or refer to the plan of the wholesale power generator. For purposes of this section, a wholesale power generator does not include a municipally created

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-29-184-EE Page 22 of 33

joint agency if that joint agency receives at least 75% of its electricity from a generating facility owned in partnership with an electrical utility and that electrical utility: (a) generally serves the area in which the joint agency's members are located; and (b) is responsible for dispatching the capacity and output of the generated electricity.

~~(C) The State Energy Office, to the extent practicable, shall evaluate and comment on external environmental and economic consequences of each integrated resource plan submitted and on the environmental and economic consequences for suppliers and distributors.~~

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

(B)(1)~~(D)The State Energy Office shall coordinate the preparation of an integrated resource plan for the State and shall coordinate with regional groups, including the Southern States Energy Board.~~ An integrated resource plan shall include all of the following:

(a) a long-term forecast of the utility's sales and peak demand under various reasonable scenarios;

(b) the type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including fuel cost sensitivities under various reasonable scenarios;

(c) projected energy purchased or produced by the utility from a renewable energy resource;

(d) a summary of the electrical transmission investments planned by the utility;

(e) several resource portfolios developed with the purpose of fairly evaluating the range of demand-side, supply-side, storage, and other technologies and services available to meet the utility's service obligations. Such portfolios and evaluations must include an

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-29-184-EE Page 24 of 33

evaluation of low, medium, and high cases for the adoption of renewable energy and cogeneration, energy efficiency, and demand response measures, including consideration of the following:

(i)customer energy efficiency and demand response programs;

(ii) facility retirement assumptions; and

(iii) sensitivity analyses related to fuel costs, environmental regulations, and other uncertainties or risks;

(f) data regarding the utility's current generation portfolio, including the age, licensing status, and remaining estimated life of operation for each facility in the portfolio;

(g) plans for meeting current and future capacity needs with the cost estimates for all proposed resource portfolios in the plan;

(h) an analysis of the cost and reliability impacts of all reasonable options available to meet projected energy and capacity needs; and

(i)a forecast of the utility's peak demand, details regarding the amount of peak demand reduction the utility expects to achieve, and the actions the utility proposes to take in order to achieve that peak demand reduction.

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

(C)(1) The commission shall have a proceeding to review each electrical utility's integrated resource plan. As part of the integrated resource plan filing, the commission shall allow intervention by interested parties. The commission shall establish a procedural schedule to permit reasonable discovery after an integrated resource plan is filed in order to assist parties in obtaining evidence concerning the integrated resource plan, including the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties. Not later than three hundred days after an electrical utility files an integrated resource plan, the commission shall issue a final order approving, modifying or denying the plan filed by the electrical utility.

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

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC - ND-2019-184-EE Page 25 of 33

(a) resource adequacy and capacity to serve anticipated peak electrical load, and applicable planning reserve margins;

(b) consumer affordability and least cost;

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

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply; and

(g) other foreseeable conditions that the commission determines to be for the public interest.

(3) If the commission modifies or rejects an electrical utility's integrated resource plan, the electrical utility, within sixty days after the date of the final order, shall submit a revised plan addressing concerns identified by the commission and incorporating commission mandated revisions to the integrated resource plan to the commission for approval. Within sixty days of the electrical utility's revised filing, the Office of Regulatory Staff shall review the electrical utility's revised plan and submit a report to the commission assessing the sufficiency of the revised filing. Other parties to the integrated resource plan proceeding also may submit comments. Not later than sixty days after the Office of Regulatory Staff report is filed with the commission, the commission at its discretion may determine whether to accept the revised integrated resource plan or to mandate further remedies that the commission deems appropriate.

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

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

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-20-0184-EE Page 26 of 33

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

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

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

SECTION 8. Chapter 37, Title 58 of the 1976 Code is amended by adding:

"Section 58-37-60. (A) The commission and the Office of Regulatory Staff are authorized to initiate an independent study to evaluate the integration of renewable energy and emerging energy technologies into the electric grid for the public interest. An integration study conducted pursuant to this section shall evaluate what is required for electrical utilities to integrate increased levels of renewable energy and emerging energy technologies while maintaining economic, reliable, and safe operation of the electricity grid in a manner consistent with the public interest. Studies shall be based on the balancing areas of each electrical utility. The commission shall provide an opportunity for interested parties to provide input on the appropriate scope of the study and also to provide comments on a draft report before it is finalized. All data and information relied on by the independent consultant in preparation of the draft study shall be made available to interested parties, subject to appropriate confidentiality protections, during the public comment period. The results of the independent study shall be reported to the General Assembly.

(B) The commission may require regular updates from utilities regarding the implementation of the state's renewable energy policies.

(C) The commission may hire or retain a consultant to assist with the independent study authorized by this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of the consultant authorized by this subsection."

SECTION 9. Section 58-33-110 of the 1976 Code is amended by adding an item at the end to read:

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO 2019-184-E Page 27 of 33

"(8)(a) Notwithstanding the provisions of (7), and not limiting the provisions above, a person may not commence construction of a major utility facility for generation in the State of South Carolina without first having made a demonstration that the facility to be built has been compared to other generation options in terms of cost, reliability, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. The commission is authorized to adopt rules for such evaluation of other generation options.

(b) The commission may, upon a showing of a need, require a commission-approved process that includes:

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

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

(iii) a reasonable period for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade secrets that could hamper future negotiations; however, the independent evaluator may access all such information;

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

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

(vi) a demonstration that the facility is consistent with an integrated resource plan approved by the commission; and

(vii) treatment of utility affiliates in the same manner as nonaffiliates participating in the request for proposal process."

SECTION 10. Section 58-27-460 of the 1976 Code is amended to read:

"Section 58-27-460. (A)(1)The commission shall promulgate and periodically review standards for interconnection ~~of renewable energy facilities and other nonutility-owned generation~~ and parallel operation of generating facilities to an electrical utility's distribution

ACCEPTED FOR PROCESSING - 2019 May 23 10:22AM SCPSC NO 2019-184-E Page 28 of 33

and transmission system, where such interconnection is under the jurisdiction of the commission pursuant to Title 16, Chapter 12, Subchapter II of the United States Code, as amended, regulations and orders of the Federal Energy Regulatory Commission, and the laws of South Carolina. Each electrical utility shall implement such standards in a fair, nondiscriminatory manner. ~~with a generation capacity of two thousand kilowatts (2,000 kW AC) or less to an electrical utility's distribution system.~~

(2) The commission shall, within six months of the effective date of the amendments to this section, establish proceedings for the purpose of considering revisions to the standards promulgated pursuant to this section. In developing such revisions, the commission may consider any issue, which, in the exercise of its discretion, the commission deems relevant to improving the fairness and effectiveness of the procedures.

(3) In implementing item (1), the commission shall ensure such standards provide for efficient and timely processing of interconnection requests and take into account the impact of generator interconnection on electrical utility system assets, service reliability, and power quality. Such standards shall address the impact of the addition of energy storage and the interconnection processes for amending existing interconnection requests to include energy storage. The commission shall enact standards that are fair, reasonable, and nondiscriminatory with respect to interconnection applicants, other utility customers, and electrical utilities, and the standards shall serve the public interest in terms of overall cost and system reliability.

(B) No ~~customer-generator or customer-generator lessee~~ generating facility shall connect or operate ~~an electric generation unit~~ in parallel phase and synchronization with any electrical utility without written approval by the electrical utility that all of the commission's requirements have been met. For a ~~customer-generator or customer-generator lessee who~~ generating facility that violates this provision, an electrical utility immediately may and without notice disconnect the ~~electric facilities of the customer-generator or customer-generator lessee and terminate the customer-generator's or customer-generator lessee's~~ generating facility electric service.

(C) In the event of a dispute between an interconnection customer and the electrical utility on an issue relating to interconnection service, the parties first shall attempt to resolve the claim or dispute using any dispute resolution procedures provided for pursuant to the applicable interconnection standards

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSSC NO 29-184-EE Page 29 of 33

promulgated by the commission. If the parties are unable to resolve such claim or dispute using those procedures, then either party may petition the commission for resolution of the dispute including, but not limited to, a determination of the appropriate terms and conditions for interconnection. The commission shall resolve such disputes within six months from the filing of the petition in accordance with the terms of applicable state and federal law.

(D) Each electrical utility shall comply with the South Carolina generator interconnection procedures and all commission-approved agreements regarding interconnection practices and reporting requirements. The commission shall establish reasonable guidelines to ensure reasonable interconnection timelines, including time requirements to deliver a final system impact study to all interconnection customers that execute a system impact study agreement prior to three months after the effective date of this act. The commission shall consider implementation of additional performance incentives and enforcement mechanisms for electrical utilities to ensure compliance with this requirement.

(E) The commission shall, as part of implementing (A)(1), consider whether a comprehensive independent review of interconnection should be performed and consider whether to require each electrical utility to:

(1) conduct a study to determine the scope and cost of necessary transmission upgrades to support development of renewable energy resources in a manner that does not impact reliability;

(2) evaluate the cost of developing and maintaining hosting capacity maps to allow power producers to identify areas of the distribution grid that are more amenable to building and interconnecting their generation facilities and to avoid areas that are already saturated with distributed generation; and

(3) file a list of interconnected facilities with the commission each quarter, to include interconnections that are under the jurisdiction of the Federal Energy Regulatory Commission."

SECTION 11. Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-2660. (A)(1) The Office of Regulatory Staff and the Department of Consumer Affairs are directed to develop consumer protection regulations regarding the sale or lease of renewable energy generation facilities pursuant to the distributed energy resource program in Chapter 40 of this title. These

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-29-184-EE Page 30 of 33

regulations shall provide for the appropriate disclosure provided by sellers and lessors. Sellers must comply with Title 37. Nothing herein alters existing protections afforded by Title 37.

(2) To fulfill the duties and responsibilities provided for in this section, the Office of Regulatory staff shall develop a formal complaint process as part of the consumer protection regulations.

(B) The Office of Regulatory Staff is authorized to enforce any applicable consumer protection provision set forth in this title by:

(1) conducting an investigation into an alleged violation;

(2) issuing a cease and desist order against a further violation;

(3) imposing an administrative fine not to exceed two thousand five hundred dollars per violation on a solar company that materially fails to comply with the consumer protection requirements; and

(4) voiding the agreement if necessary to remedy the violation or violations."

SECTION 12. Section 58-4-10(B) of the 1976 Code is amended to read:

"(B) Unless and until it chooses not to participate, the Office of Regulatory Staff must be considered a party of record in all filings, applications, or proceedings before the commission. The regulatory staff must represent the public interest of South Carolina before the commission. For purposes of this chapter <u>only</u>, "public interest" means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services."

SECTION 13. Section 58-4-100 of the 1976 Code is amended to read:

"<u>(A)</u> To the extent necessary to carry out regulatory staff responsibilities, the executive director is authorized to employ expert witnesses and other professional expertise as the executive director may consider necessary to assist the regulatory staff in its participation in commission proceedings. The compensation paid to these persons may not exceed compensation generally paid by the regulated industry for such specialists. The compensation and expenses therefor must be paid by the public utility or utilities participating in the proceedings upon agreement between the public utility or utilities participating in the proceedings and the Office of

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO-20-0184-EE Page 81 of 133

Regulatory Staff or upon approval by the Review Committee or from the regulatory staff's budget. If paid by the public utility or utilities, the compensation and expenses must be treated by the commission, for ratemaking purposes, in a manner generally consistent with its treatment of similar expenditures incurred by utilities in the presentation of their cases before the commission. An accounting of compensation and expenses must be reported annually to the review committee, the Speaker of the House of Representatives, and the Chairman of the Senate Judiciary Committee.

(B) The Office of Regulatory Staff is exempt from the State Procurement Code in the selection and hiring of an expert or third-party consultant to conduct an independent study described in Section 58-37-60 and Section 58-41-20(H). However, the Office of Regulatory Staff and the commission may not hire the same expert or third-party consultant in the same proceeding or to address the same or similar issues in different proceedings."

SECTION 14. The provisions of Section 58-41-20 shall not be interpreted to supersede the conditions of any settlement entered into by an electrical utility and filed with the commission prior to the adoption of this act.

SECTION 15. All costs incurred by the utility necessary to effectuate this act, that are not precluded from recovery by other provisions of this act and that do not have a recovery mechanism otherwise specified in other provisions of the act or established by state law, shall be deferred for commission consideration of recovery in any proceeding initiated under Section 58-27-870, if deemed reasonable and prudent.

SECTION 16. Notwithstanding another provision of this act, or another provision of law, no costs or expenses incurred nor any payments made by the electrical utility in compliance or in accordance with this act must be included in the electrical utility's rates or otherwise be borne by the general body of South Carolina retail customers of the electrical utility without an affirmative finding supported by the preponderance of evidence of record and conclusion in a written order by the Public Service Commission that such expense, cost or payment was reasonable and prudent and made in the best interest of the electrical utility's general body of customers.

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCPSC NO 2019-184-EE Page 32 of 33

SECTION 17. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 18. This act takes effect upon approval by the Governor.

----XX----

ACCEPTED FOR PROCESSING - 2019 May 23 10:20AM SCBSSC NO-29-184-EE Page 36 of 33