

1 **RESPONSIBLE DEVELOPMENT OF NUCLEAR**

2 **POWER GENERATION**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: F. Jay Seegmiller**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

9
10 This bill modifies the Public Service Commission's (PSC) powers to regulate a nuclear
11 power corporation and the state energy policy.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires a nuclear power corporation to obtain from the PSC a certificate of
- 15 convenience and necessity before constructing or operating a nuclear power plant;
- 16 ▶ authorizes the PSC to issue a certificate of convenience and necessity to a nuclear
- 17 power corporation only if:
 - 18 • there is a federally licensed facility in the United States with adequate capacity
 - 19 to dispose of the nuclear power plant's high-level nuclear waste; and
 - 20 • the proposed nuclear power plant is economically advantageous to ratepayers;
- 21 ▶ amends the state energy policy to promote the responsible development of nuclear
- 22 power generation; and
- 23 ▶ makes technical corrections.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **54-4-25**, as last amended by Laws of Utah 2005, Chapter 11

31 **63M-4-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **54-4-25** is amended to read:

35 **54-4-25. Certificate of convenience and necessity prerequisite to construction and**
36 **operation -- Electrical suppliers.**

37 (1) As used in this section:

38 (a) "Nuclear power corporation" means a corporation and person, their lessees,
39 trustees, and receivers owning, controlling, operating, or managing a nuclear power plant for
40 public service or for the selling or furnishing of nuclear power to a consumer for domestic,
41 commercial, or industrial use.

42 (b) "Nuclear power plant" means a nuclear-fired electric generating facility designed
43 for nominal operation at a capacity of 100 megawatts or more.

44 (c) "Public utility corporation" means:

45 (i) a public utility as defined in Section 54-2-1; and

46 (ii) a nuclear power corporation.

47 ~~[(1)]~~ (2) Except as provided in Section 11-13-304, a gas corporation, electric
48 corporation, telephone corporation, telegraph corporation, heat corporation, water corporation,
49 nuclear power corporation, or sewerage corporation may not establish, or begin construction or
50 operation of a line, route, plant, or system or of any extension of a line, route, plant, or system,
51 without having first obtained from the commission a certificate that present or future public
52 convenience and necessity does or will require the construction.

53 ~~[(2)]~~ (3) This section may not be construed to require any public utility corporation to
54 secure a certificate for an extension:

55 (a) within any city or town within which it has lawfully commenced operations;

56 (b) into territory, either within or without a city or town, contiguous to its line, plant, or
57 system that is not served by a public utility corporation of like character; or

58 (c) within or to territory already served by it, necessary in the ordinary course of its

59 business.

60 ~~[(3)]~~ (4) If any public utility corporation in constructing or extending its line, plant, or
61 system interferes or may interfere with the operation of the line, plant, or system of any other
62 public utility corporation already constructed, the commission, on complaint of the public
63 utility corporation claiming to be injuriously affected, may, after a hearing, make an order and
64 prescribe the terms and conditions for the location of the lines, plants, or systems affected as
65 the commission determines are just and reasonable.

66 ~~[(4)]~~ (5) (a) (i) Each applicant for a certificate shall file in the office of the commission
67 evidence as required by the commission to show that the applicant has received or is in the
68 process of obtaining the required consent, franchise, or permit of the proper county, city,
69 municipal, or other public authority.

70 (ii) If the applicant is in the process of obtaining the required consent, franchise, or
71 permit, a certificate shall be conditioned upon:

72 (A) receipt of the consent, franchise, or permit within the time period the commission
73 may direct; and

74 (B) the filing of such evidence of the receipt of the consent, franchise, or permit as the
75 commission may require.

76 (b) Each applicant, except an interlocal entity defined in Section 11-13-103, shall also
77 file in the office of the commission a statement that any proposed line, plant, or system will not
78 conflict with or adversely affect the operations of any existing certificated fixed public utility
79 corporation which supplies the same product or service to the public and that it will not
80 constitute an extension into the territory certificated to the existing fixed public utility
81 corporation.

82 (c) The commission may, after a hearing:

83 (i) issue the certificate as requested;

84 (ii) refuse to issue the certificate; or

85 (iii) issue the certificate for the construction of a portion only of the contemplated line,
86 plant, or system, or extension thereof, or for the partial exercise only of the right or privilege.

87 (d) The commission may attach to the exercise of the rights granted by the certificate
88 the terms and conditions as in its judgment public convenience and necessity may require.

89 (e) (i) If a public utility corporation desires to exercise a right or privilege under a

90 franchise or permit which it contemplates securing but which has not yet been granted to it, the
91 public utility corporation may apply to the commission for an order preliminary to the issue of
92 the certificate.

93 (ii) The commission may make an order declaring that it will upon application, under
94 rules and regulations as it may prescribe, issue the desired certificate upon terms and conditions
95 as it may designate after the public utility corporation has obtained the contemplated franchise
96 or permit.

97 (iii) Upon presentation to the commission of evidence satisfactory to it that the
98 franchise or permit has been secured by the public utility corporation, the commission shall
99 issue the certificate.

100 (6) Subject to this section's provisions, the commission may not certify a nuclear power
101 corporation unless the commission finds that:

102 (a) there is a federally licensed facility in the United States with adequate capacity to
103 dispose of high-level nuclear waste, as defined in Section 19-3-102, from the nuclear power
104 plant; and

105 (b) the proposed nuclear power plant is economically advantageous to ratepayers based
106 upon:

107 (i) a comparison to other feasible power alternatives;

108 (ii) the existence of a reliable and adequate nuclear fuel supply;

109 (iii) the costs for construction, operation, and decommissioning of the nuclear power
110 plant and nuclear waste disposal; and

111 (iv) other facts relevant to the economic viability of the nuclear power plant.

112 [~~5~~] (7) (a) Any supplier of electricity which is brought under the jurisdiction and
113 regulation of the Public Service Commission by this title may file with the commission an
114 application for a certificate of convenience and necessity, giving the applicant the exclusive
115 right to serve the customers it is serving in the area in which it is serving at the time of this
116 filing, subject to the existing right of any other electrical corporation to likewise serve its
117 customers in existence in the area at the time.

118 (b) The application shall be prima facie evidence of the applicant's rights to a
119 certificate, and the certificate shall be issued within 30 days after the filing, pending which,
120 however, the applicant shall have the right to continue its operations.

121 (c) Upon good cause shown to the commission by anyone protesting the issuance of
122 such a certificate, or upon the commission's own motion, a public hearing may be held to
123 determine if the applicant has sufficient finances, equipment, and plant to continue its existing
124 service. The commission shall issue its order within 45 days after the hearing according to the
125 proof submitted at the hearing.

126 (d) Every electrical corporation, save and except those applying for a certificate to
127 serve only the customers served by applicant on May 11, 1965, applying for a certificate shall
128 have established a ratio of debt capital to equity capital or will within a reasonable period of
129 time establish a ratio of debt capital to equity capital which the commission shall find renders
130 the electrical corporation financially stable and which financing shall be found to be in the
131 public interest.

132 [~~6~~] (8) Nothing in this section affects the existing rights of municipalities.

133 [~~7~~] (9) The commission shall consolidate an action filed under Chapter 17, Part 3,
134 Resource Plans and Significant Energy Resource Approval or Part 4, Voluntary Request for
135 Resource Decision Review, with a proceeding under this section if:

136 (a) a public utility corporation is required to obtain a certificate of convenience and
137 necessity pursuant to this section; and

138 (b) the public utility corporation files an action under Chapter 17, Part 3, Resource
139 Plans and Significant Energy Resource Approval or Part 4, Voluntary Request for Resource
140 Decision Review.

141 Section 2. Section **63M-4-301** is amended to read:

142 **63M-4-301. State energy policy.**

143 (1) It is the policy of the state that:

144 (a) Utah have adequate, reliable, affordable, sustainable, and clean energy resources;

145 (b) Utah will promote the development of:

146 (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and tar
147 sands; and

148 (ii) renewable energy resources, including geothermal, solar, wind, biomass, biodiesel,
149 hydroelectric, and ethanol;

150 (c) Utah will promote the study and responsible development of nuclear power
151 generation;

152 (d) Utah will promote the development of resources and infrastructure sufficient to
153 meet the state's growing demand, while contributing to the regional and national energy supply,
154 thus reducing dependence on international energy sources;

155 (e) Utah will allow market forces to drive prudent use of energy resources, although
156 incentives and other methods may be used to ensure the state's optimal development and use of
157 energy resources in the short- and long-term;

158 (f) Utah will pursue energy conservation, energy efficiency, and environmental quality;

159 (g) (i) state regulatory processes should be streamlined to balance economic costs with
160 the level of review necessary to ensure protection of the state's various interests; and

161 (ii) where federal action is required, Utah will encourage expedited federal action and
162 will collaborate with federal agencies to expedite review;

163 (h) Utah will maintain an environment that provides for stable consumer prices that are
164 as low as possible while providing producers and suppliers a fair return on investment,
165 recognizing that:

166 (i) economic prosperity is linked to the availability, reliability, and affordability of
167 consumer energy supplies; and

168 (ii) investment will occur only when adequate financial returns can be realized; and

169 (i) Utah will promote training and education programs focused on developing a
170 comprehensive understanding of energy, including programs addressing:

171 (i) energy conservation;

172 (ii) energy efficiency;

173 (iii) supply and demand; and

174 (iv) energy related workforce development.

175 (2) State agencies are encouraged to conduct agency activities consistent with
176 Subsection (1).

177 (3) A person may not file suit to challenge a state agency's action that is inconsistent
178 with Subsection (1).

Legislative Review Note
as of 1-5-10 11:23 AM

Office of Legislative Research and General Counsel

H.B. 85 - Responsible Development of Nuclear Power Generation

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
