**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3443**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rutherford

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Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Public Service Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Labor, Commerce and Industry**

1/8/2019 House Introduced and read first time ([House Journal‑page 241](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 241](file:///h:\hj\20190108.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3443&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3443_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑27‑412 SO AS TO PROVIDE THAT NOTWITHSTANDING ANOTHER PROVISION OF LAW, FORMAL APPLICATION TO AND WRITTEN APPROVAL FROM THE PUBLIC SERVICE COMMISSION MUST BE OBTAINED BEFORE THE SALE, ASSIGNMENT, PLEDGE, OR TRANSFER OF AN EXISTING OR FUTURE FRANCHISE WITH A RETAIL ELECTRIC PROVIDER ISSUED PURSUANT TO THE PROVISIONS OF THIS CHAPTER, OR CONTROL OF AN EXISTING OR FUTURE FRANCHISE WITH A RETAIL ELECTRIC PROVIDER ISSUED PURSUANT TO THE PROVISIONS OF THIS CHAPTER IS CHANGED, ALTERED, OR AMENDED THROUGH STOCK TRANSFER, LEASE, OR OTHERWISE, OR A MERGER OR CONSOLIDATION AFFECTING A RETAIL ELECTRIC PROVIDER MADE THROUGH ACQUISITION OR CONTROL BY STOCK PURCHASE OR OTHERWISE, TO REQUIRE THE PARTIES TO A PROPOSED MERGER, ACQUISITION, OR CONSOLIDATION PROVIDE AND DOCUMENT FORMALLY CERTAIN COMMITMENTS AND ASSURANCES; AND TO PROVIDE THAT THE PUBLIC SERVICE COMMISSION’S APPROVAL MUST BE GIVEN IF JUSTIFIED BY PUBLIC CONVENIENCE OR NECESSITY, AND THAT THE PROVISIONS OF THIS ACT DO NOT APPLY TO REGULAR TRADING IN LISTED SECURITIES ON RECOGNIZED MARKETS.

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

SECTION 1. Article 3, Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑412. (A) Notwithstanding another provision of law, formal application to and written approval from the Public Service Commission must be obtained before:

(1) the sale, assignment, pledge, or transfer of an existing or future franchise with a retail electric provider issued pursuant to the provisions of this chapter;

(2) control of an existing or future franchise with a retail electric provider issued pursuant to the provisions of this chapter is changed, altered, or amended through stock transfer, lease, or otherwise; or

(3) the merger, acquisition, or consolidation affecting a retail electric provider made through acquisition or control by stock purchase or otherwise.

(B)(1) The Public Service Commission’s approval required by this section must be based on the best interests of the ratepayers, workers, and citizens of the State of South Carolina.

(2) The Public Service Commission may not approve a proposed merger, acquisition, or consolidation pursuant to subsection (A)(3) unless the parties of interest have documented expressly their commitment to all of the following:

(a) within six months of the merger’s consummation, the new entity formed as a result of the merger (new entity) shall locate an in‑state corporate headquarters, consisting of at least one hundred employees, and maintain an in‑state corporate presence and C‑Suite level management structure that is sufficient to evaluate, address, and satisfy South Carolina’s energy requirements;

(b) each year the new entity shall hold in South Carolina at least one of each of the following types of meetings:

(i) board of directors;

(ii) executive committee; and

(iii) annual shareholders;

(c) for at least five years following the merger’s consummation, the new entity may not permit a net reduction, due to involuntary attrition as a result of the merger integration process, in the new entity’s employment levels in South Carolina. For purposes of this item, ‘involuntary attrition’ includes transfer or quit offers where the employee decides to quit or retire rather than being transferred to a work location outside South Carolina;

(d) following the merger’s consummation, the new entity shall file an annual report with the commission no later than April first of each year specifying its employment levels in South Carolina. The report shall detail all job losses, including whether attrition was involuntary or voluntary, as well as any job gains, delineated using an industry‑accepted categorization method;

(e) for two years following the merger’s consummation, the new entity shall provide current and former employees compensation and benefits that are at least as favorable in the aggregate as the compensation and benefits provided to those employees immediately before the execution of the merger agreement;

(f) the new entity shall assume all obligations to employees and retirees with respect to pension and retiree health benefits;

(g) within twelve months of the merger’s consummation, the new entity shall contribute at least two million dollars to South Carolina workforce development programs or initiatives; and

(h) for ten years following the merger’s consummation, the new entity shall provide at least an annual level of charitable contributions and traditional local community support in South Carolina that exceeds the level for the twelve‑month period preceding the merger.

(C) The provisions of this section do not apply to regular trading in listed securities on recognized markets.”

SECTION 2. This act takes effect upon approval by the Governor.

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