

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Proposed Rulemaking Regarding Transfer of Non-Resident Customers to a Municipal Electric Utility	<u>DOCKET NO. 24-999-16</u> <u>NOTICE OF PROPOSED RULE</u>
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ISSUED: September 5, 2024

On September 5, 2024, the Public Service Commission (PSC) issued a notice (“Notice”) in Docket No. 24-035-03, *Investigation of Rocky Mountain Power’s Transfer of Assets and Customers to Hurricane City*, indicating the PSC’s intention to adopt a rule that prohibits an electric corporation from transferring customers who do not reside within a municipality’s boundaries to a municipal utility unless the PSC has approved an agreement between the electrical corporation and the municipality as Utah Code § 10-8-14 requires.¹ As discussed in the Notice, the intention of the new rule is to codify in the PSC’s administrative rules actions that are patently unlawful under Utah Code § 10-8-14 and to prohibit electric utilities from facilitating violations of that statute.

The PSC gives notice of its intention to adopt such a rule. A draft of the proposed rule is attached.

¹ Section 10-8-14 does not require the PSC’s approval of such an agreement between electrical cooperatives and municipalities, but the statute does require the electrical cooperative’s governing body to approve the agreement. The rule proposed here mirrors these statutory requirements.

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DATED at Salt Lake City, Utah, September 5, 2024.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#335342

PROPOSED RULE

R746. Administration.

R746-XXX. Approval of Certain Agreements between an Electrical Corporation and a Municipality.

R746-XXX-1. Authority.

This rule requires electrical corporations to comply with Sections 10-8-14 and 54-4-40 and precludes electrical corporations from facilitating violations of Section 10-8-14 by transferring customers to a municipal utility where the customer resides outside the municipality's boundaries when the municipality has not satisfied the requirements of Section 10-8-14.

R746-XXX-2. Definitions.

- (1) "Commission" means the Public Service Commission of Utah.
- (2) "Electrical corporation" is defined as in Section 54-2-1.
- (3) "Electrical cooperative" is an electrical corporation that meets the requirements of Subsection 54-7-12(7).
- (4) "Non-resident customer" means a customer of an electrical corporation that does not reside within the municipal boundaries of a municipality that operates a new municipal service provider.
- (5) "Municipality" is defined as in Section 10-1-104.
- (6) "Municipal utility" means a retail electric utility service provider operated by a municipality.
- (7) "New municipal service provider" means a municipal utility that intends to provide electric utility service to one or more non-resident customers that receive service from an electrical corporation.
- (8) "Transfer agreement" means a written agreement wherein an electrical corporation agrees to allow a municipal utility to provide service to one or more non-resident customers for whom the electrical corporation provides electric utility service as described in Subsections 10-8-14(5) and 10-8-14(6).

R746-XXX-3. Prohibition on Transferring Non-Resident Customers in Violation of Section 10-8-14.

- (1) An electrical corporation that is not an electrical cooperative may not transfer a non-resident customer to a new municipal service provider unless the Commission has approved a transfer agreement as Section 54-4-40 contemplates and as Subsection 10-8-14(6)(c)(iii)(A) requires.
- (2) An electrical cooperative may not transfer a non-resident customer to a new municipal service provider unless the electrical cooperative's governing board has approved a transfer agreement as Subsection 10-8-14(6)(c)(iii)(B) requires.

(3) The prohibitions in Subsections R746-XXX-3(1) and R746-XXX-3(2) apply regardless of any expressed intention of a municipality to annex the territory in which a non-resident customer resides and regardless of whether a municipality has taken any action to annex the territory.

(4) Where a municipality intends to annex or has taken action to begin annexation of the territory in which a non-resident customer resides, the prohibitions in Subsections R746-XXX-3(1) and R746-XXX-3(2) apply until the annexation is finished and takes effect as governed by Subsection 10-2-425(5).

KEY: public utilities; new municipal service providers

Date of Enactment or Last Substantive Amendment: _____.

Authorizing, and Implemented or Interpreted Law: Sections 10-8-14; 54-4-40; 54-4-1.

CERTIFICATE OF SERVICE

I CERTIFY that on September 5, 2024, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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