ASSEMBLY, No. 1691

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Requires public utility holding companies owning electric generation and electric transmission facility assets to divest either all electric generation or all electric transmission facility assets to unaffiliated companies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the divestment of certain electric generation and transmission facility assets and supplementing Title 48 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Affiliate" means any entity that directly or indirectly controls, is under common control with, or is controlled by, a public utility holding company.

"Board" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Electric generation facility" means any real property in this State and rights therein, including, but not limited to, lines, structures, equipment, and other real property that is, or will be, acquired, constructed, and operated in this State, for or in connection with the generation, but not the transmission or distribution, of electricity in this State by a public utility holding company.

"Electric transmission facility" means any real property in this State and rights therein, including, but not limited to, lines, structures, equipment, and other real property that is, or will be, acquired, constructed, and operated in this State, for or in connection with the transmission, but not the generation or distribution, of electricity in this State by a public utility holding company.

"Generation stranded cost" means the amount that the net cost of a public utility holding company's electric generation facility assets, as determined by the board, exceeds the market value of those assets.

"Public utility holding company" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51) and shall include any affiliate of the public utility holding company.

"Transmission stranded cost" means the amount that the net cost of a public utility holding company's electric transmission facility assets, as determined by the board, exceeds the market value of those assets.

2. a. The board shall require any public utility holding company that owns electric generation facility assets and electric transmission facility assets in this State to, after board approval, divest either: (1) all of its electric transmission facility assets and operations to an unaffiliated company not owning electric generation facility assets in this State; or (2) all of its electric generation facility assets and operations to an unaffiliated company not owning electric transmission facility assets in this State. Any

divestment required by the board pursuant to this subsection shall be completed within 18 months of the board's order, unless the board grants a one-time, six-month extension for good cause. The parties subject to the divestment shall give notice to the board within 10 days following the completion of the divestment.

b. The board shall ensure fair compensation to the public utility holding company for any property divested pursuant to subsection a. of this section. The board may authorize any divestment at less than the net value of the electric generation facility assets or electric transmission facility assets if generation stranded cost recovery or transmission stranded cost recovery is ordered for the divesting public utility holding company. For any divesting public utility holding company that shall receive generation stranded cost recovery or transmission stranded cost recovery under a board order:

(1) Any amount of generation stranded cost recovery or transmission stranded cost recovery may be securitized.

(2) Generation stranded cost recovery or transmission stranded cost recovery may be amortized over a period not to exceed five calendar years.

(3) The costs of implementing the divestment shall be recoverable by the divesting public utility holding company to the extent that the board determines the costs to be reasonably necessary to carry out the divestment.

(4) The board shall require the divesting public utility holding company seeking generation stranded cost recovery or transmission stranded cost recovery to demonstrate that it has taken all reasonable steps to minimize its generation stranded costs or transmission stranded costs as a precondition to transmission stranded cost recovery.

c. Following the divestment of the electric generation facility assets or electric transmission facility assets of a public utility holding company pursuant to subsection a. of this section, the board shall order an adjustment to the rate base of the public utility holding company applicable to electric distribution service and compensate ratepayers for any proceeds realized by the public utility holding company from the divestment that are attributable to ratepayer funds used to construct and maintain the electric generation facility assets or the electric transmission facility assets prior to divestment.

d. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) shall affect the ownership, operation, or control of an electric distribution system or electric distribution service by a public utility holding company.

3. This act shall take effect immediately, but shall remain inoperative for 90 days following the date of enactment.

STATEMENT

This bill requires any public utility holding company that owns electric generation facility assets and electric transmission facility assets in this State to divest either: (1) all of its electric transmission facility assets and operations to an unaffiliated company not owning electric generation assets in this State; or (2) all of its electric generation facility assets and operations to an unaffiliated company not owning electric transmission assets in this State.

The bill provides for generation asset stranded cost recovery transmission asset stranded cost recovery for divesting public utility holding companies if certain conditions are met. Following a divestment of the electric generation facility assets or the electric transmission facility assets of a public utility holding company, the Board of Public Utilities is to order an adjustment to the rate base of the public utility holding company applicable to electric distribution service to compensate ratepayers for any proceeds gained by the public utility holding company from the divestment that are attributable to ratepayer funds used to construct and maintain the electric generation facility assets or the electric transmission facility assets prior to divestment. The provisions of the bill are not to affect the ownership, operation, or control of an electric distribution system or electric distribution service by a public utility holding company.