

1 **SUSTAINABLE TRANSPORTATION AND ENERGY PLAN**

2 **ACT AMENDMENTS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stephen G. Handy**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill expands the Sustainable Transportation Plan Act to include a large-scale
11 natural gas utility.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends the Sustainable Transportation Plan Act to expand the program to include a
- 15 large-scale natural gas utility;
- 16 ▶ defines the pilot program period for a large-scale natural gas utility;
- 17 ▶ defines parameters for the program; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **54-2-1**, as last amended by Laws of Utah 2016, Chapters 267, 315, and 393

26 **54-3-8**, as last amended by Laws of Utah 2014, Chapter 381

27 **54-4-2**, as last amended by Laws of Utah 2014, Chapter 381

28 **54-4-13.1**, as enacted by Laws of Utah 2009, Chapter 303

29 **54-4-13.4**, as enacted by Laws of Utah 2013, Chapter 311

30 **54-20-102**, as enacted by Laws of Utah 2016, Chapter 393

31 **54-20-105**, as enacted by Laws of Utah 2016, Chapter 393

32 **54-20-107**, as enacted by Laws of Utah 2016, Chapter 393

33

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

35 Section 1. Section **54-2-1** is amended to read:

36 **54-2-1. Definitions.**

37 As used in this title:

38 (1) "Avoided costs" means the incremental costs to an electrical corporation of electric
39 energy or capacity or both that, due to the purchase of electric energy or capacity or both from
40 small power production or cogeneration facilities, the electrical corporation would not have to
41 generate itself or purchase from another electrical corporation.

42 (2) "Clean coal technology" means a technology that may be researched, developed, or
43 used for reducing emissions or the rate of emissions from a thermal electric generation plant
44 that uses coal as a fuel source.

45 (3) "Cogeneration facility":

46 (a) means a facility that produces:

47 (i) electric energy; and

48 (ii) steam or forms of useful energy, including heat, that are used for industrial,
49 commercial, heating, or cooling purposes; and

50 (b) is a qualifying cogeneration facility under federal law.

51 (4) "Commission" means the Public Service Commission.

52 (5) "Commissioner" means a member of the commission.

53 (6) (a) "Corporation" includes an association and a joint stock company having any
54 powers or privileges not possessed by individuals or partnerships.

55 (b) "Corporation" does not include towns, cities, counties, conservancy districts,
56 improvement districts, or other governmental units created or organized under any general or
57 special law of this state.

- 58 (7) "Distribution electrical cooperative" includes an electrical corporation that:
- 59 (a) is a cooperative;
- 60 (b) conducts a business that includes the retail distribution of electricity the cooperative
- 61 purchases or generates for the cooperative's members; and
- 62 (c) is required to allocate or distribute savings in excess of additions to reserves and
- 63 surplus on the basis of patronage to the cooperative's:
- 64 (i) members; or
- 65 (ii) patrons.
- 66 (8) (a) "Electrical corporation" includes every corporation, cooperative association, and
- 67 person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any
- 68 electric plant, or in any way furnishing electric power for public service or to its consumers or
- 69 members for domestic, commercial, or industrial use, within this state.
- 70 (b) "Electrical corporation" does not include:
- 71 (i) an independent energy producer;
- 72 (ii) where electricity is generated on or distributed by the producer solely for the
- 73 producer's own use, or the use of the producer's tenants, or the use of members of an
- 74 association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act,
- 75 and not for sale to the public generally;
- 76 (iii) an eligible customer who provides electricity for the eligible customer's own use or
- 77 the use of the eligible customer's tenant or affiliate; or
- 78 (iv) a nonutility energy supplier who sells or provides electricity to:
- 79 (A) an eligible customer who has transferred the eligible customer's service to the
- 80 nonutility energy supplier in accordance with Section [54-3-32](#); or
- 81 (B) the eligible customer's tenant or affiliate.
- 82 (c) "Electrical corporation" does not include an entity that sells electric vehicle battery
- 83 charging services, unless the entity conducts another activity in the state that subjects the entity
- 84 to the jurisdiction and regulation of the commission as an electrical corporation.
- 85 (9) "Electric plant" includes all real estate, fixtures, and personal property owned,

86 controlled, operated, or managed in connection with or to facilitate the production, generation,
87 transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits,
88 ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying
89 conductors used or to be used for the transmission of electricity for light, heat, or power.

90 (10) "Eligible customer" means a person who:

91 (a) on December 31, 2013:

92 (i) was a customer of a public utility that, on December 31, 2013, had more than
93 200,000 retail customers in this state; and

94 (ii) owned an electric plant that is an electric generation plant that, on December 31,
95 2013, had a generation name plate capacity of greater than 150 megawatts; and

96 (b) produces electricity:

97 (i) from a qualifying power production facility for sale to a public utility in this state;

98 (ii) primarily for the eligible customer's own use; or

99 (iii) for the use of the eligible customer's tenant or affiliate.

100 (11) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

101 (a) of an eligible customer; and

102 (b) who are primarily engaged in an activity:

103 (i) related to the eligible customer's core mining or industrial businesses; and

104 (ii) performed on real property that is:

105 (A) within a 25-mile radius of the electric plant described in Subsection (10)(a)(ii); and

106 (B) owned by, controlled by, or under common control with, the eligible customer.

107 (12) "Gas corporation" includes every corporation and person, their lessees, trustees,

108 and receivers, owning, controlling, operating, or managing any gas plant for public service

109 within this state or for the selling or furnishing of natural gas to any consumer or consumers

110 within the state for domestic, commercial, or industrial use, except in the situation that:

111 (a) gas is made or produced on, and distributed by the maker or producer through,

112 private property:

113 (i) solely for the maker's or producer's own use or the use of the maker's or producer's

114 tenants; and

115 (ii) not for sale to others;

116 (b) gas is compressed on private property solely for the owner's own use or the use of
117 the owner's employees as a motor vehicle fuel; or

118 (c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely
119 for sale as a motor vehicle fuel.

120 (13) "Gas plant" includes all real estate, fixtures, and personal property owned,
121 controlled, operated, or managed in connection with or to facilitate the production, generation,
122 transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

123 (14) "Heat corporation" includes every corporation and person, their lessees, trustees,
124 and receivers, owning, controlling, operating, or managing any heating plant for public service
125 within this state.

126 (15) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and
127 personal property controlled, operated, or managed in connection with or to facilitate the
128 production, generation, transmission, delivery, or furnishing of artificial heat.

129 (b) "Heating plant" does not include either small power production facilities or
130 cogeneration facilities.

131 (16) "Independent energy producer" means every electrical corporation, person,
132 corporation, or government entity, their lessees, trustees, or receivers, that own, operate,
133 control, or manage an independent power production or cogeneration facility.

134 (17) "Independent power production facility" means a facility that:

135 (a) produces electric energy solely by the use, as a primary energy source, of biomass,
136 waste, a renewable resource, a geothermal resource, or any combination of the preceding
137 sources; or

138 (b) is a qualifying power production facility.

139 (18) "Large-scale electric utility" means a public utility that provides retail electric
140 service to more than 200,000 retail customers in the state.

141 (19) "Large-scale natural gas utility" means a public utility that provides retail natural

142 gas service to more than 200,000 retail customers in the state.

143 [~~(19)~~] (20) "Nonutility energy supplier" means a person that:

144 (a) has received market-based rate authority from the Federal Energy Regulatory
145 Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate
146 Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

147 (b) owns, leases, operates, or manages an electric plant that is an electric generation
148 plant that:

149 (i) has a capacity of greater than 100 megawatts; and

150 (ii) is hosted on the site of an eligible customer that consumes the output of the electric
151 plant, in whole or in part, for the eligible customer's own use or the use of the eligible
152 customer's tenant or affiliate.

153 [~~(20)~~] (21) "Private telecommunications system" includes all facilities for the
154 transmission of signs, signals, writing, images, sounds, messages, data, or other information of
155 any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio
156 facilities, that are owned, controlled, operated, or managed by a corporation or person,
157 including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that
158 corporation or person and not for the shared use with or resale to any other corporation or
159 person on a regular basis.

160 [~~(21)~~] (22) (a) "Public utility" includes every railroad corporation, gas corporation,
161 electrical corporation, distribution electrical cooperative, wholesale electrical cooperative,
162 telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat
163 corporation, and independent energy producer not described in Section 54-2-201 where the
164 service is performed for, or the commodity delivered to, the public generally, or in the case of a
165 gas corporation or electrical corporation where the gas or electricity is sold or furnished to any
166 member or consumers within the state for domestic, commercial, or industrial use.

167 (b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone
168 corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation,
169 or independent energy producer not described in Section 54-2-201, performs a service for or

170 delivers a commodity to the public, it is considered to be a public utility, subject to the
171 jurisdiction and regulation of the commission and this title.

172 (ii) If a gas corporation, independent energy producer not described in Section
173 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or
174 consumers within the state, for domestic, commercial, or industrial use, for which any
175 compensation or payment is received, it is considered to be a public utility, subject to the
176 jurisdiction and regulation of the commission and this title.

177 (c) Any corporation or person not engaged in business exclusively as a public utility as
178 defined in this section is governed by this title in respect only to the public utility owned,
179 controlled, operated, or managed by the corporation or person, and not in respect to any other
180 business or pursuit.

181 (d) Any person or corporation defined as an electrical corporation or public utility
182 under this section may continue to serve its existing customers subject to any order or future
183 determination of the commission in reference to the right to serve those customers.

184 (e) (i) "Public utility" does not include any person that is otherwise considered a public
185 utility under this Subsection [~~(21)~~] (22) solely because of that person's ownership of an interest
186 in an electric plant, cogeneration facility, or small power production facility in this state if all of
187 the following conditions are met:

188 (A) the ownership interest in the electric plant, cogeneration facility, or small power
189 production facility is leased to:

190 (I) a public utility, and that lease has been approved by the commission;

191 (II) a person or government entity that is exempt from commission regulation as a
192 public utility; or

193 (III) a combination of Subsections [~~(21)~~] (22)(e)(i)(A)(I) and (II);

194 (B) the lessor of the ownership interest identified in Subsection [~~(21)~~] (22)(e)(i)(A) is:

195 (I) primarily engaged in a business other than the business of a public utility; or

196 (II) a person whose total equity or beneficial ownership is held directly or indirectly by
197 another person engaged in a business other than the business of a public utility; and

198 (C) the rent reserved under the lease does not include any amount based on or
199 determined by revenues or income of the lessee.

200 (ii) Any person that is exempt from classification as a public utility under Subsection
201 [~~(21)~~] (22)(e)(i) shall continue to be so exempt from classification following termination of the
202 lessee's right to possession or use of the electric plant for so long as the former lessor does not
203 operate the electric plant or sell electricity from the electric plant. If the former lessor operates
204 the electric plant or sells electricity, the former lessor shall continue to be so exempt for a
205 period of 90 days following termination, or for a longer period that is ordered by the
206 commission. This period may not exceed one year. A change in rates that would otherwise
207 require commission approval may not be effective during the 90-day or extended period
208 without commission approval.

209 (f) "Public utility" does not include any person that provides financing for, but has no
210 ownership interest in an electric plant, small power production facility, or cogeneration facility.
211 In the event of a foreclosure in which an ownership interest in an electric plant, small power
212 production facility, or cogeneration facility is transferred to a third-party financier of an electric
213 plant, small power production facility, or cogeneration facility, then that third-party financier is
214 exempt from classification as a public utility for 90 days following the foreclosure, or for a
215 longer period that is ordered by the commission. This period may not exceed one year.

216 (g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel
217 does not cause the distributor or transporter to be a "public utility," unless the commission,
218 after notice and a public hearing, determines by rule that it is in the public interest to regulate
219 the distributors or transporters, but the retail sale alone of compressed natural gas as a motor
220 vehicle fuel may not cause the seller to be a "public utility."

221 (ii) In determining whether it is in the public interest to regulate the distributors or
222 transporters, the commission shall consider, among other things, the impact of the regulation
223 on the availability and price of natural gas for use as a motor fuel.

224 (h) "Public utility" does not include:

225 (i) an eligible customer who provides electricity for the eligible customer's own use or

226 the use of the eligible customer's tenant or affiliate; or

227 (ii) a nonutility energy supplier that sells or provides electricity to:

228 (A) an eligible customer who has transferred the eligible customer's service to the
229 nonutility energy supplier in accordance with Section 54-3-32; or

230 (B) the eligible customer's tenant or affiliate.

231 (i) "Public utility" does not include an entity that sells electric vehicle battery charging
232 services, unless the entity conducts another activity in the state that subjects the entity to the
233 jurisdiction and regulation of the commission as a public utility.

234 (j) "Public utility" does not include an independent energy producer that is not subject
235 to regulation by the commission as a public utility under Section 54-2-201.

236 ~~[(22)]~~ (23) "Purchasing utility" means any electrical corporation that is required to
237 purchase electricity from small power production or cogeneration facilities pursuant to the
238 Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

239 ~~[(23)]~~ (24) "Qualifying power producer" means a corporation, cooperative association,
240 or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or
241 person, who owns, controls, operates, or manages any qualifying power production facility or
242 cogeneration facility.

243 ~~[(24)]~~ (25) "Qualifying power production facility" means a facility that:

244 (a) produces electrical energy solely by the use, as a primary energy source, of biomass,
245 waste, a renewable resource, a geothermal resource, or any combination of the preceding
246 sources;

247 (b) has a power production capacity that, together with any other facilities located at
248 the same site, is no greater than 80 megawatts; and

249 (c) is a qualifying small power production facility under federal law.

250 ~~[(25)]~~ (26) "Railroad" includes every commercial, interurban, and other railway, other
251 than a street railway, and each branch or extension of a railway, by any power operated,
252 together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots,
253 union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all

254 other real estate, fixtures, and personal property of every kind used in connection with a
255 railway owned, controlled, operated, or managed for public service in the transportation of
256 persons or property.

257 ~~[(26)]~~ (27) "Railroad corporation" includes every corporation and person, their lessees,
258 trustees, and receivers, owning, controlling, operating, or managing any railroad for public
259 service within this state.

260 ~~[(27)]~~ (28) (a) "Sewerage corporation" includes every corporation and person, their
261 lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage
262 system for public service within this state.

263 (b) "Sewerage corporation" does not include private sewerage companies engaged in
264 disposing of sewage only for their stockholders, or towns, cities, counties, conservancy
265 districts, improvement districts, or other governmental units created or organized under any
266 general or special law of this state.

267 ~~[(28)]~~ (29) "Telegraph corporation" includes every corporation and person, their
268 lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line
269 for public service within this state.

270 ~~[(29)]~~ (30) "Telegraph line" includes all conduits, ducts, poles, wires, cables,
271 instruments, and appliances, and all other real estate, fixtures, and personal property owned,
272 controlled, operated, or managed in connection with or to facilitate communication by
273 telegraph, whether that communication be had with or without the use of transmission wires.

274 ~~[(30)]~~ (31) "Telephone cooperative" means a telephone corporation that:

275 (a) is a cooperative; and

276 (b) is organized for the purpose of providing telecommunications service to the
277 telephone corporation's members and the public at cost plus a reasonable rate of return.

278 ~~[(31)]~~ (32) (a) "Telephone corporation" means any corporation or person, and their
279 lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates,
280 manages, or resells a public telecommunications service as defined in Section [54-8b-2](#).

281 (b) "Telephone corporation" does not mean a corporation, partnership, or firm

282 providing:

283 (i) intrastate telephone service offered by a provider of cellular, personal
284 communication systems (PCS), or other commercial mobile radio service as defined in 47
285 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications
286 Commission;

287 (ii) Internet service; or

288 (iii) resold intrastate toll service.

289 [~~32~~] (33) "Telephone line" includes all conduits, ducts, poles, wires, cables,
290 instruments, and appliances, and all other real estate, fixtures, and personal property owned,
291 controlled, operated, or managed in connection with or to facilitate communication by
292 telephone whether that communication is had with or without the use of transmission wires.

293 [~~33~~] (34) "Transportation of persons" includes every service in connection with or
294 incidental to the safety, comfort, or convenience of the person transported, and the receipt,
295 carriage, and delivery of that person and that person's baggage.

296 [~~34~~] (35) "Transportation of property" includes every service in connection with or
297 incidental to the transportation of property, including in particular its receipt, delivery,
298 elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and
299 hauling, and the transmission of credit by express companies.

300 [~~35~~] (36) "Water corporation" includes every corporation and person, their lessees,
301 trustees, and receivers, owning, controlling, operating, or managing any water system for
302 public service within this state. It does not include private irrigation companies engaged in
303 distributing water only to their stockholders, or towns, cities, counties, water conservancy
304 districts, improvement districts, or other governmental units created or organized under any
305 general or special law of this state.

306 [~~36~~] (37) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes,
307 headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures,
308 and personal property owned, controlled, operated, or managed in connection with or to
309 facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage,

310 appointment, apportionment, or measurement of water for power, fire protection, irrigation,
311 reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

312 (b) "Water system" does not include private irrigation companies engaged in
313 distributing water only to their stockholders.

314 [~~(37)~~] (38) "Wholesale electrical cooperative" includes every electrical corporation that
315 is:

316 (a) in the business of the wholesale distribution of electricity it has purchased or
317 generated to its members and the public; and

318 (b) required to distribute or allocate savings in excess of additions to reserves and
319 surplus to members or patrons on the basis of patronage.

320 Section 2. Section 54-3-8 is amended to read:

321 **54-3-8. Preferences forbidden -- Power of commission to determine facts --**
322 **Applicability of section.**

323 (1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility
324 may not:

325 (a) as to rates, charges, service, facilities or in any other respect, make or grant any
326 preference or advantage to any person, or subject any person to any prejudice or disadvantage;
327 and

328 (b) establish or maintain any unreasonable difference as to rates, charges, service or
329 facilities, or in any other respect, either as between localities or as between classes of service.

330 (2) The commission shall have power to determine any question of fact arising under
331 this section.

332 (3) This section does not apply to, and the commission may not enforce this chapter
333 concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility,
334 or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), [~~(19)~~] (20), or [~~(21)~~]
335 (22)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own
336 use or the use of the eligible customer's tenant or affiliate.

337 Section 3. Section 54-4-2 is amended to read:

338 **54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of**
339 **chapter.**

340 (1) (a) The commission may conduct an investigation if the commission determines an
341 investigation:

342 (i) is necessary to secure compliance with this title or with an order of the commission;

343 (ii) is in the public interest; or

344 (iii) should be made of any act or omission to act, or of anything accomplished or
345 proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule,
346 regulation, service, or facility of any public utility.

347 (b) If the commission conducts an investigation under Subsection (1)(a), the
348 commission may:

349 (i) establish a time and place for a hearing;

350 (ii) provide notice to the public utility concerning the investigation; and

351 (iii) make findings and orders that are just and reasonable with respect to the
352 investigation.

353 (2) This chapter does not apply to a schedule, classification, rate, price, charge, fare,
354 toll, rental, rule, service, facility, or contract of an entity described in Subsection
355 [54-2-1\(8\)\(b\)\(iii\)](#) or (iv), [~~(19)~~] [\(20\)](#), or [~~(21)~~] [\(22\)](#)(i), or if the electricity is consumed by an
356 eligible customer for the eligible customer's own use or the use of the eligible customer's tenant
357 or affiliate.

358 Section 4. Section **54-4-13.1** is amended to read:

359 **54-4-13.1. Natural gas vehicle rate -- Natural gas clean air programs.**

360 (1) The commission may find that a gas corporation's request for a natural gas vehicle
361 rate that is less than full cost of service is:

362 (a) in the public interest; and

363 (b) just and reasonable.

364 (2) If the commission approves a gas corporation's request under Subsection (1), the
365 remaining costs may be spread to other customers of the gas corporation.

366 (3) The commission may authorize a gas corporation to establish natural gas clean air
367 programs that promote sustainability through increasing the use of natural gas or renewable
368 natural gas that the commission determines are in the public interest, subject to the funding
369 limits set forth in Subsection 54-20-105(3)(c).

370 (4) For purposes of this section, and as pertaining to the transportation sector, "natural
371 gas clean air program" means:

372 (a) an incentive or program to support the use of natural gas, including renewable
373 natural gas;

374 (b) a program to improve air quality through the use of natural gas or renewable natural
375 gas; and

376 (c) does not include any program under Section 54-4-13.4.

377 (5) A gas corporation proposing a natural gas clean air program for approval by the
378 commission under Subsection (3) shall seek input from:

379 (a) the Division of Public Utilities;

380 (b) the Office of Consumer Services; and

381 (c) any person that files a request for notice with the commission.

382 (6) The commission may review the expenditure made by a gas corporation for a
383 natural gas clean air program to determine if the gas corporation made the expenditure
384 prudently in accordance with the purposes of the program.

385 (7) If the commission approves a gas corporation's request under Subsection (3), the
386 remaining costs may be spread to other customers of the gas corporation.

387 (8) A natural gas clean air program under Section 54-4-13.1 shall be considered
388 distinct and independent of Section 54-4-13.4.

389 Section 5. Section 54-4-13.4 is amended to read:

390 **54-4-13.4. Natural gas fueling stations and facilities -- Recovery of expenditures**
391 **for stations and facilities.**

392 (1) The commission shall find that a gas corporation's expenditures for the
393 construction, operation, and maintenance of natural gas fueling stations and appurtenant natural

394 gas facilities [~~for use by the state, political subdivisions of the state, and the public~~] are in the
395 public interest and are just and reasonable, if:

396 (a) the gas corporation's expenditures for the fueling stations and appurtenant facilities:

397 (i) are prudently incurred; and

398 (ii) do not exceed \$5,000,000 in any calendar year;

399 (b) the gas corporation shows that the estimated annual incremental increase in revenue
400 related to the stations and facilities exceeds 50% of the annual revenue requirement of the
401 stations and facilities; and

402 (c) the stations and facilities are in service and are being used and are useful.

403 (2) (a) A gas corporation may seek the recovery of expenditures under Subsection (1)
404 through a mechanism designed to track and collect the expenditures between general rate cases.

405 (b) (i) The commission shall allow a gas corporation to recover, through an incremental
406 surcharge to all of its rate classes, expenditures that the gas corporation incurs that are directly
407 related to the construction, operation, and maintenance of the stations and facilities described
408 in Subsection (1), reduced by revenues the gas corporation receives during the same time
409 period directly attributable to the stations and facilities.

410 (ii) The commission shall assign a surcharge under Subsection (2)(b)(i) to each rate
411 class based upon the pro rata share, approved by the commission, of the tariff revenue ordered
412 in the gas corporation's most recent general rate case.

413 (iii) A gas corporation may file an application to adjust a surcharge under Subsection
414 (2)(b)(i) as frequently as semiannually.

415 (iv) At the gas corporation's next general rate case, the commission shall include in
416 base rates all expenditures that the gas corporation prudently incurs associated with a surcharge
417 under Subsection (2)(b)(i).

418 Section 6. Section **54-20-102** is amended to read:

419 **54-20-102. Definitions.**

420 As used in this chapter:

421 (1) "Demand side management" means the same as that term is defined in Section

422 [54-7-12.8.](#)

423 (2) "Pilot program period" means a period of [5] five years~~[, beginning on January 1,~~
424 ~~2017,]~~ during which the sustainable transportation and energy plan is effective[-]:

425 (a) for a large-scale electric utility, beginning on January 1, 2017; or

426 (b) for a large-scale natural gas utility, beginning on July 1, 2019.

427 (3) "Sustainable transportation and energy plan" means the programs approved by the
428 commission and undertaken by a large-scale electric utility or large-scale natural gas utility
429 during the pilot program period, including:

430 (a) a natural gas vehicle rate or natural gas clean air program described in Section

431 [54-4-13.1](#);

432 ~~[(a)]~~ (b) the electric vehicle incentive program described in Section [54-20-103](#);

433 ~~[(b)]~~ (c) the clean coal technology program described in Section [54-20-104](#); and

434 ~~[(c)]~~ (d) the innovative technology programs described in Section [54-20-105](#).

435 Section 7. Section **54-20-105** is amended to read:

436 **54-20-105. Innovative utility programs.**

437 (1) The commission may authorize, subject to funding available under Subsection
438 [54-7-12.8\(6\)\(b\)\(ii\)\(B\)](#), a large-scale electric utility to implement programs that the commission
439 determines are in the interest of large-scale electric utility customers to provide for the
440 investigation, analysis, and implementation of:

441 (a) an economic development incentive rate;

442 (b) a solar generation incentive;

443 (c) a battery storage or electric grid related project;

444 (d) a commercial line extension pilot program;

445 (e) a program to curtail emissions from thermal generation plant in the Salt Lake
446 non-attainment area during a non-attainment event as defined by the Division of Air Quality;

447 (f) an additional electric vehicle incentive program incremental to the program
448 described in Section [54-20-103](#);

449 (g) an additional clean coal program incremental to the program described in Section

450 [54-20-104](#); ~~and~~]

451 (h) an acquisition of electric infrastructure behind the large-scale electric utility's
452 meter; and

453 ~~(h)~~ (i) any other technology program.

454 (2) The commission may review the expenditures made by a large-scale electric utility
455 for a program described in Subsection (1) in order to determine if the large-scale electric utility
456 made the expenditures prudently in accordance with the purposes of the program.

457 (3) (a) The commission may authorize a large-scale natural gas utility to implement
458 and fund programs that the commission determines are in the public interest of large-scale
459 natural gas utility customers to provide for the investigation, analysis, and implementation of:

460 (i) an economic development incentive rate;

461 (ii) research and development of other efficiency technologies;

462 (iii) an acquisition of nonresidential natural gas infrastructure behind the large-scale
463 natural gas utility's meter;

464 (iv) the development of communities that can reduce greenhouse gases and NOx
465 emissions;

466 (v) a natural gas renewable energy project;

467 (vi) a commercial line extension program; or

468 (vii) any other technology program.

469 (b) A large-scale natural gas utility proposing a program under this Subsection (3)
470 shall, before submitting the program to the commission for approval, seek input from:

471 (i) the Division of Public Utilities;

472 (ii) the Office of Consumer Services; and

473 (iii) a person that files a request for notice with the commission.

474 (c) In determining whether a project is in the public interest, the commission shall
475 consider the following factors:

476 (i) to what extent the use of renewable natural gas is facilitated or expanded by the
477 proposed project;

- 478 (ii) potential air quality improvements associated with the proposed project;
479 (iii) whether the proposed project could be provided by the private sector or would be
480 viable without the proposed incentives;
481 (iv) whether any proposed incentives were offered to all similarly situated potential
482 partners and recipients; and
483 (v) potential benefits to ratepayers.
484 (d) Upon commission approval, the commission may authorize the large-scale natural
485 gas utility to allocate on an annual basis up to \$10,000,000 to a specific sustainable
486 transportation and energy plan as described in Subsections (3)(a)(i) through (vii) or a specific
487 natural gas clean air program as provided in Section [54-4-13.1](#).
488 (e) A large-scale natural gas utility shall establish a balancing account that includes:
489 (i) funds allocated for projects that have been approved by the commission under
490 Subsection (3)(a); and
491 (ii) a carrying charge in an amount determined by the commission.
492 (4) The commission may review the expenditures made by a large-scale natural gas
493 utility for a program described in Subsection (3) and approved by the commission in order to
494 determine if the large-scale natural gas utility made the expenditures prudently in accordance
495 with the purposes of the program.
496 ~~[(3)]~~ (5) The commission may authorize and establish funding for a conservation,
497 efficiency, or new technology program in addition to the programs described in this chapter if
498 the conservation, efficiency, or new technology program is cost-effective and in the public
499 interest.
500 (6) A large-scale electric utility or a large-scale natural gas utility that establishes and
501 operates a natural gas clean air program described in Section [54-4-13.1](#), a sustainable
502 transportation and energy plan under Section [54-7-12.8](#), or any plan or program under this
503 chapter, shall submit a written report annually, on or before June 1, to the Public Utilities,
504 Energy and Technology Interim Committee about each plan or program active during the
505 previous calendar year, including status, operation, funding, disposition of funds, plan or

506 program benefits, and the impact on rates.

507 Section 8. Section **54-20-107** is amended to read:

508 **54-20-107. Other programs.**

509 The commission may authorize a large-scale electric utility or a large-scale natural gas
510 utility to establish a program in addition to the programs described in this chapter if the
511 commission determines that the program is cost-effective and in the public interest.