

1 SB52
2 164781-5
3 By Senator Ward
4 RFD: Transportation and Energy
5 First Read: 03-MAR-15
6 PFD: 03/02/2015

1 SB52

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4 ENROLLED, An Act,

5 Relating to incumbent electric suppliers; to add
6 Article 7 to Chapter 4 of Title 37, Code of Alabama 1975, to
7 establish that incumbent electric suppliers have the right to
8 construct, own, operate, and maintain new electric
9 transmission facilities and upgrades for their own electric
10 systems; to provide for two or more electric suppliers to
11 address the circumstance where a new transmission facility
12 would connect to each of their electric systems; and to
13 provide for appeals of disputes to the circuit court and for
14 the venue of appeals.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as the Energy Security Act of 2015.

18 Section 2. The Legislature hereby finds and declares
19 that due to the economic, financial, and service impacts
20 associated with the development of electric transmission
21 facilities used for the furnishing of electric service to
22 consumers in this state, it is in the public interest to
23 provide incumbent electric suppliers the right to construct,
24 own, operate, and maintain new transmission facilities that
25 connect to their own electric systems. The Legislature further

1 finds and declares that providing incumbent electric suppliers
2 this right furthers their ability to satisfy their respective
3 obligations to provide service to Alabama consumers. This act
4 implements these findings.

5 Section 3. Article 7 is added to Chapter 4 of Title
6 37, Code of Alabama 1975, to read as follows:

7 Article 7.

8 §37-4-150.

9 (a) As used in this section, the following words
10 have the following meanings:

11 (1) COMMISSION. The Alabama Public Service
12 Commission.

13 (2) ELECTRIC TRANSMISSION FACILITY. Any transmission
14 line, substation, equipment, or other facility at a design
15 voltage greater than 35,000 volts.

16 (3) INCUMBENT ELECTRIC SUPPLIER. A utility that
17 furnishes electric service for end-use to retail customers or
18 non-jurisdictional electric supplier that furnishes electric
19 service for end-use to retail customers or at wholesale for
20 resale in Alabama.

21 (4) NON-JURISDICTIONAL ELECTRIC SUPPLIER. Any of the
22 following:

23 a. A municipality that owns or operates an electric
24 system.

1 b. Any public corporation, cooperative corporation,
2 membership corporation, agency, authority, board, or other
3 entity or body which is engaged in the business of selling
4 electricity to its members at wholesale, or purchasing
5 electricity from, or distributing or selling electricity to,
6 retail electric consumers in the state, which is not subject
7 to the jurisdiction of the commission and which is organized
8 and existing pursuant to the provisions of any of the
9 following:

10 1. A local act providing that the governing body of
11 the entity is to be appointed by the governing body of a
12 municipality and is authorized to furnish electricity to the
13 public in the municipality or in the municipality and the
14 surrounding territory.

15 2. Article 9 of Chapter 50 of Title 11.

16 3. Chapter 50A of Title 11.

17 4. Article 15 of Chapter 50 of Title 11.

18 5. Article 16 of Chapter 50 of Title 11.

19 6. Chapter 5 of Title 37.

20 7. Chapter 6 of Title 37.

21 8. Chapter 7 of Title 37.

22 9. Chapter 7 of Title 39.

23 (5) UTILITY. A utility as defined in paragraph a. of
24 subdivision (7) of Section 37-4-1 that is subject to the
25 jurisdiction of the commission.

1 (b) Subject to the requirements of applicable
2 Alabama law, an incumbent electric supplier shall have the
3 right to construct, own, operate, and maintain both the
4 following:

5 (1) Any new electric transmission facility in the
6 state that would connect to its electric system.

7 (2) Any upgrade to any electric transmission
8 facility that it owns in this state.

9 (c) The right to construct, own, operate, and
10 maintain a new electric transmission facility that would
11 connect to the electric systems of two or more incumbent
12 electric suppliers belongs individually and proportionally to
13 each such incumbent electric supplier whose electric system
14 would connect to the new electric transmission facility,
15 subject to any existing written agreement between the
16 incumbent electric suppliers respecting the facilities, unless
17 otherwise agreed upon in writing.

18 (d) In recognition of the duty of a utility
19 established in Section 37-1-49 to maintain its plant,
20 facilities, and equipment in good operating condition, to
21 render adequate service to the public, and to make such
22 reasonable improvements, extensions, and enlargements of its
23 plants, facilities, and equipment as may be necessary to meet
24 the growth and demand of the territory which it is under the
25 duty to serve, a utility may not waive its right to construct,

1 own, operate, and maintain any new electric transmission
2 facility in the state that would connect to its electric
3 system such that an entity who is not an incumbent electric
4 supplier would have that right unless the utility has first
5 applied to and received an order from the commission
6 authorizing the waiver.

7 (e) In the event of a dispute between incumbent
8 electric suppliers concerning the right described in
9 subsection (b) or (c), an incumbent electric supplier may
10 petition the circuit court for the judicial circuit in which
11 all or any portion of the electric transmission facility would
12 be located to determine matters that are in dispute.

13 (f) Nothing in this section shall do any of the
14 following:

15 (1) Subject any non-jurisdictional electric supplier
16 to the jurisdiction or control of the commission.

17 (2) Affect the right and power of any
18 non-jurisdictional electric supplier to construct, own,
19 operate, and maintain an electric transmission facility except
20 as specifically provided herein, or the authority of the
21 governing body thereof to determine whether to do so.

22 (3) Apply to any electric transmission facility to
23 be constructed, owned, operated, and maintained by a
24 nonutility as defined by subdivision (5) of Section 37-4-1.

1 (g) This section of the Code of Alabama shall sunset
2 on July 1, 2023. By July 1, 2022, the Speaker of the House and
3 the Senate President Pro Tempore shall appoint a committee of
4 individuals knowledgeable in the subjects addressed in this
5 act and that committee shall report to the Legislature by
6 January 1, 2023.

7 Section 4. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB52

Senate 19-MAR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 28-APR-15

By: Senator Ward