

1 HB517  
2 199394-2  
3 By Representative Baker  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 25-APR-19

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ENROLLED, An Act,

Relating to electricity utility services; to amend Section 37-4-150, Code of Alabama 1975, to remove the sunset provision from the Energy Security Act of 2015.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 37-4-150, Code of Alabama 1975, is amended to read as follows:

"§37-4-150.

"(a) This section shall be known and may be cited as the Energy Security Act of 2015.

"(b) The Legislature hereby finds and declares that due to the economic, financial, and service impacts associated with the development of electric transmission facilities used for the furnishing of electric service to consumers in this state, it is in the public interest to provide incumbent electric suppliers the right to construct, own, operate, and maintain new transmission facilities that connect to their own electric systems. The Legislature further finds and declares that providing incumbent electric suppliers this right furthers their ability to satisfy their respective obligations to provide service to Alabama consumers. This section implements these findings.

"(c) As used in this section, the following words have the following meanings:

1                   "(1) COMMISSION. The Alabama Public Service  
2 Commission.

3                   "(2) ELECTRIC TRANSMISSION FACILITY. Any  
4 transmission line, substation, equipment, or other facility at  
5 a design voltage greater than 35,000 volts.

6                   "(3) INCUMBENT ELECTRIC SUPPLIER. A utility that  
7 furnishes electric service for end-use to retail customers or  
8 non-jurisdictional electric supplier that furnishes electric  
9 service for end-use to retail customers or at wholesale for  
10 resale in Alabama.

11                   "(4) NON-JURISDICTIONAL ELECTRIC SUPPLIER. Any of  
12 the following:

13                   "a. A municipality that owns or operates an electric  
14 system.

15                   "b. Any public corporation, cooperative corporation,  
16 membership corporation, agency, authority, board, or other  
17 entity or body which is engaged in the business of selling  
18 electricity to its members at wholesale, or purchasing  
19 electricity from, or distributing or selling electricity to,  
20 retail electric consumers in the state, which is not subject  
21 to the jurisdiction of the commission and which is organized  
22 and existing pursuant to the provisions of any of the  
23 following:

24                   "1. A local act providing that the governing body of  
25 the entity is to be appointed by the governing body of a

1 municipality and is authorized to furnish electricity to the  
2 public in the municipality or in the municipality and the  
3 surrounding territory.

4 "2. Article 9 of Chapter 50 of Title 11.

5 "3. Chapter 50A of Title 11.

6 "4. Article 15 of Chapter 50 of Title 11.

7 "5. Article 16 of Chapter 50 of Title 11.

8 "6. Chapter 5 of this title.

9 "7. Chapter 6 of this title.

10 "8. Chapter 7 of this title.

11 "9. Chapter 7 of Title 39.

12 "(5) UTILITY. A utility as defined in paragraph a.  
13 of subdivision (7) of Section 37-4-1 that is subject to the  
14 jurisdiction of the commission.

15 "(d) Subject to the requirements of applicable  
16 Alabama law, an incumbent electric supplier shall have the  
17 right to construct, own, operate, and maintain both the  
18 following:

19 "(1) Any new electric transmission facility in the  
20 state that would connect to its electric system.

21 "(2) Any upgrade to any electric transmission  
22 facility that it owns in this state.

23 "(e) The right to construct, own, operate, and  
24 maintain a new electric transmission facility that would  
25 connect to the electric systems of two or more incumbent

1 electric suppliers belongs individually and proportionally to  
2 each such incumbent electric supplier whose electric system  
3 would connect to the new electric transmission facility,  
4 subject to any existing written agreement between the  
5 incumbent electric suppliers respecting the facilities, unless  
6 otherwise agreed upon in writing.

7 "(f) In recognition of the duty of a utility  
8 established in Section 37-1-49 to maintain its plant,  
9 facilities, and equipment in good operating condition, to  
10 render adequate service to the public, and to make such  
11 reasonable improvements, extensions, and enlargements of its  
12 plants, facilities, and equipment as may be necessary to meet  
13 the growth and demand of the territory which it is under the  
14 duty to serve, a utility may not waive its right to construct,  
15 own, operate, and maintain any new electric transmission  
16 facility in the state that would connect to its electric  
17 system such that an entity who is not an incumbent electric  
18 supplier would have that right unless the utility has first  
19 applied to and received an order from the commission  
20 authorizing the waiver.

21 "(g) In the event of a dispute between incumbent  
22 electric suppliers concerning the right described in  
23 subsection (d) or (e), an incumbent electric supplier may  
24 petition the circuit court for the judicial circuit in which

1 all or any portion of the electric transmission facility would  
2 be located to determine matters that are in dispute.

3 "(h) Nothing in this section shall do any of the  
4 following:

5 "(1) Subject any non-jurisdictional electric  
6 supplier to the jurisdiction or control of the commission.

7 "(2) Affect the right and power of any  
8 non-jurisdictional electric supplier to construct, own,  
9 operate, and maintain an electric transmission facility except  
10 as specifically provided herein, or the authority of the  
11 governing body thereof to determine whether to do so.

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

15 ~~"(i) This section shall sunset on July 1, 2023. By  
16 July 1, 2022, the Speaker of the House and the Senate  
17 President Pro Tempore shall appoint a committee of individuals  
18 knowledgeable in the subjects addressed in this section and  
19 that committee shall report to the Legislature by January 1,  
20 2023."~~

21 Section 2. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.

