



OFFERED BY SENATOR GIVHAN

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A BILL
TO BE ENTITLED
AN ACT

Relating to the Public Service Commission; to establish the Power to the People Act; to amend Sections 37-1-1, 37-1-3, 37-1-5, and 37-1-12, Code of Alabama 1975; to revise the membership and terms of the public service commissioners; to establish the Secretary of Energy as a cabinet member appointed by the Governor and provide for the duties of the secretary; to add Sections 37-1-81.1, 37-1-81.2, and 37-1-81.3 to the Code of Alabama 1975, to prohibit an increase in electric retail base rates for a certain period and thereafter prohibit electric utilities from including certain costs in the calculation or determination of rates or service regulations; to require the commission to hold a public meeting at least annually; to provide for rate hearings in certain circumstances; to amend Sections 17-14-2, 17-14-3, and 36-3-1, Code of Alabama 1975, to make conforming changes; to repeal Section 37-1-9, Code of Alabama 1975, relating to public service commissioners; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



29 Section 1. This act shall be known and may be cited as
30 the Power to the People Act.

31 Section 2. Sections 37-1-1, 37-1-3, 37-1-5, and
32 37-1-12, Code of Alabama 1975, are amended to read as follows:

33 "§37-1-1

34 A commission to be known as the Public Service
35 Commission, ~~consisting of a president and two associates who~~
36 ~~shall be competent persons and qualified electors of this~~
37 ~~state,~~ is established with seven commissioners as provided
38 under Section 37-1-3."

39 "§37-1-3

40 (a) (1) The terms of office of the commissioners shall
41 be for four years; ~~at the election to be held in the state on~~
42 ~~the first Tuesday after the first Monday in November,~~ for all
43 commissioners serving on or before the effective date of this
44 act.

45 (2) At the general election held in November 1940, and
46 every four years thereafter until the general election held in
47 November 2028, a president of the commission shall be elected
48 by the qualified electors of this state; and at the general
49 ~~election to be held in the state on the first Tuesday after~~
50 ~~the first Monday held~~ held in November, 1942, and every four years
51 thereafter until the general election held in November 2026,
52 two associates, who, with the president, shall constitute the
53 commission, shall be elected by the qualified electors of the
54 state. The result of such election shall be ascertained and
55 declared by the same authority and in the same manner as are
56 the results of election for Chief Justice and associate



57 justices of the Supreme Court.

58 ~~(b) The persons elected to fill the offices shall enter~~
59 ~~upon the discharge of their respective duties on the day after~~
60 ~~the general election at which they are elected and expire on~~
61 ~~the day after the general election held in the fourth year~~
62 ~~after their election.~~

63 (b) (1) Beginning after the effective date of this act
64 as further provided in this subsection, the membership of the
65 commission shall be expanded so that each commissioner shall
66 represent and serve, and be elected by the qualified voters
67 of, a geographical district that shall be identical to a
68 corresponding congressional district, as fixed and established
69 by Section 17-14-70 or pursuant to any map ordered by a court
70 to be used in lieu thereof. Each commissioner must have been a
71 resident of the state for a period of seven years immediately
72 before taking office and reside in the state while in office.
73 The Secretary of State and Governor shall ensure that
74 commissioners are phased in so that each of the seven
75 congressional districts are represented by the terms beginning
76 in January 2033.

77 (2) No later than July 15, 2026, the Governor shall
78 appoint four commissioners to serve initial terms beginning
79 January 18, 2027, two of whom shall serve a two-year term and
80 two of whom shall serve a four-year term. When making
81 appointments, the Governor shall choose one individual from a
82 list of three names submitted for each position. The lists
83 shall be jointly submitted by the Lieutenant Governor, the
84 Speaker of the House of Representatives, and the President Pro



85 Tempore of the Senate. The lists shall be provided to the
86 Governor no later than June 1, 2026.

87 (3) The elections of commissioners shall be phased in
88 and staggered as follows:

89 a. At the general election held in November 2026, two
90 commissioners shall be elected in the same manner as
91 commissioners were elected before June 1, 2026, as provided in
92 subdivision (a)(2).

93 b. At the general election held in November 2028, one
94 commissioner shall be elected to replace the commissioner
95 previously known as president of the commission and two
96 commissioners shall be elected to replace the two
97 commissioners who were appointed to serve a two-year term. The
98 commissioners shall be elected by congressional districts,
99 including one commissioner who must represent the Seventh
100 Congressional District.

101 c. At the general election held in November 2030, two
102 commissioners shall be elected to replace the two
103 commissioners who were appointed to serve a four-year term.
104 The commissioners shall be elected by congressional districts,
105 including one commissioner who must represent the Second
106 Congressional District.

107 d. At the general election held in November 2032, the
108 commissioners shall be elected by the remaining unrepresented
109 congressional districts.

110 (c) All commissioners who are elected after June 1,
111 2026, shall serve terms of six years that begin on the first
112 Monday after the second Tuesday in January following the



113 general election.

114 ~~(e)(d)~~ If any vacancy ~~should occur~~ occurs in any one of
115 the offices, caused by death, resignation, or otherwise, the
116 ~~same office~~ shall be filled by appointment by the Governor, ~~and~~
117 ~~the appointee holding for the balance to serve for the~~
118 remainder of the unexpired term. If any ~~person~~ individual
119 elected to the office of public service commissioner ~~shall~~
120 ~~fail or refuse~~ fails or refuses for 30 days to qualify, such
121 the failure or refusal shall be held to create deemed a
122 vacancy in the office, ~~which vacancy shall be filled by~~
123 ~~appointment by the Governor, the appointee to hold for the~~
124 ~~term for which the person so failing or refusing to qualify~~
125 ~~was elected~~ When making an appointment to fill a vacancy, the
126 Governor shall choose one individual from a list of three
127 names jointly submitted by the Lieutenant Governor, the
128 Speaker of the House of Representatives, and the President Pro
129 Tempore of the Senate.

130 (e) At the beginning of each term, starting with the
131 term elected in November 2028, the commissioners shall elect a
132 president and vice-president from among the membership of
133 commissioners.

134 ~~(d)(f)~~ The provisions of this section shall not
135 diminish the current term of any member elected to the Public
136 Service Commission."

137 "§37-1-5

138 ~~(a) No public service commissioner or clerk~~ Public
139 service commissioners, the Secretary of Energy, the spouse and
140 children of any commissioner or the secretary, and employees



141 of the commission ~~shall, during his continuance in office,~~
142 personally or through any partner or agent, may not render any
143 ~~professional paid~~ service for public utilities.

144 (b) A utility regulated by the Public Service
145 Commission may not make a contribution to any candidate
146 running for the office of a public service commissioner.

147 (c) The commissioners shall be subject to the ethics
148 laws under Chapter 25 of Title 36.

149 (d) No commissioner, for a fee, reward, or other
150 compensation, in addition to that received in his or her
151 official capacity, shall represent any person before the
152 Legislature or any executive department or agency."

153 "§37-1-12

154 (a) (1) Beginning January 19, 2027, the position of
155 Secretary of Energy is created as a member of the Governor's
156 cabinet. The secretary shall be appointed by and serve at the
157 pleasure of the Governor. The secretary's salary shall be
158 fixed by the Governor and shall not be subject to Section
159 36-6-6. The secretary must have experience in utility
160 regulation or energy policy or a related field.

161 (2) The Secretary of Energy shall direct the activities
162 of the commission and shall set the agendas for all meetings
163 of the commissioners, provided a meeting agenda may be amended
164 by the affirmative vote of at least five commissioners.

165 (3) The Secretary of Energy shall have authority over
166 personnel and administrative functions of the commission.

167 (4) The Secretary of Energy shall be subject to the
168 ethics laws under Chapter 25 of Title 36.



169 (b) The ~~commission~~secretary, under the provisions of
170 the ~~merit system~~Merit System, shall ~~have the authority to~~
171 ~~appoint or~~ employ professional and administrative employees,
172 including attorneys, ~~officers,~~ and such accountants,
173 engineers, ~~experts,~~ inspectors, and other clerks and other
174 employees as are necessary or expedient to carry out the
175 duties conferred by law upon the commission., ~~and the salaries~~
176 ~~therefor~~The salaries of all employees shall be fixed according
177 to the provisions of the ~~merit system~~Merit System. The
178 ~~commission~~ secretary shall also, by and with the approval of
179 the Governor, have authority to employ and discharge special
180 counsel or attorneys as it may be deemed necessary for such
181 purpose.

182 (c) Any unclassified employee who is employed by the
183 commission on the effective date of this act and was appointed
184 by a commissioner shall continue to be employed without regard
185 to his or her appointing authority. The Secretary of Energy
186 shall, in consultation with the State Personnel Board, work to
187 transfer these unclassified employees into classified
188 service."

189 Section 3. Sections 37-1-81.1, 37-1-81.2, and 37-1-81.3
190 are added to the Code of Alabama 1975 to read as follows:

191 §37-1-81.1

192 (a) The retail base rates established and in place on
193 October 1, 2026 for each utility that is regulated by the
194 commission and that provides retail electric service may not
195 be increased before January 1, 2029.

196 (b) On and after January 1, 2029, a utility that



197 provides retail electric service may not factor the following
198 costs into the calculation or determination of a new rate or
199 service regulation or a change to an existing rate or service
200 regulation charged to customers of the utility:

201 (1) Costs incurred due to the utility providing funding
202 or grants that impact rates to other persons or organizations.

203 (2) Costs incurred due to the hiring of persons for the
204 purpose of lobbying the Legislature or any other political
205 office or subdivision of the state.

206 (3) Costs incurred due to advertisement of the utility
207 other than public safety advertising approved by the
208 commission.

209 (c) (1) When an electric utility files a new schedule to
210 put in operation a new rate or service regulation or to change
211 an existing rate or service regulation, the utility shall
212 affirm that the utility has not included the prohibited costs
213 under subsection (b) in the calculation or determination of
214 the rate or service regulation.

215 (2) If the electric utility fails to make the
216 affirmation, the rate or service regulation shall be void.

217 (d) If the commission discovers that a utility has
218 included the prohibited cost under subsection (b) in the
219 calculation or determination of rates or service regulations,
220 the commission shall investigate the determination pursuant to
221 Section 37-1-83 and other powers of investigation granted to
222 the commission pursuant to this division.

223 §37-1-81.2

224 The commissioners and staff of the commission shall



225 convene at least one public meeting per calendar year with
226 utility representatives to provide information to the public
227 on cost trends, reliability, resilience, general
228 infrastructure investment plans, economic development impacts,
229 security of the power grid, national trends in energy
230 production, and other regulatory issues the Secretary of
231 Energy deems relevant. The public meetings shall be conducted
232 in a manner that gives residents the opportunity to
233 participate, addresses concerns voiced by the public, and
234 provides a review of key issues that the secretary believes
235 will be helpful to the public in understanding issues that
236 impact services under its jurisdiction.

237 §37-1-81.3

238 (a) After the mandated prohibition on increasing retail
239 base rates that runs until January 1, 2029, as provided in
240 Section 37-1-81.1, a formal hearing to examine specific issues
241 relative to the rate making process and to provide greater
242 transparency and direction to the establishment of base retail
243 rates, with testimony provided under oath, shall be triggered
244 upon the occurrence of:

245 (1) An affirmative vote of at least five commissioners
246 designating the issues to be examined and the timing and scope
247 of the formal hearing; or

248 (2) The direction of the Secretary of Energy specifying
249 the issues to be examined and the timing and scope of the
250 formal hearing.

251 (b) In determining whether to conduct a formal hearing,
252 the secretary and the commissioners shall consider all



253 relevant factors, including:

254 (1) The base retail rate customers pay relative to the
255 national average;

256 (2) The base retail rate customers pay relative to the
257 regional average;

258 (3) Customer satisfaction reports;

259 (4) Reliability of the power grid;

260 (5) Operational efficiency of generating facilities;

261 (6) Capacity to accommodate economic development
262 priorities; and

263 (7) The relevant utility's credit rating and ability to
264 raise necessary capital.

265 (c) The secretary and commissioners, when implementing
266 the provisions of this section, shall have the power to
267 administer oaths under penalty of perjury and issue subpoenas
268 pursuant to Section 37-1-63.

269 Section 4. Sections 17-14-2, 17-14-3, and 36-3-1, Code
270 of Alabama 1975, are amended to make conforming changes to
271 read as follows:

272 "§17-14-2

273 General elections throughout the state shall be held
274 for Governor, Lieutenant Governor, Attorney General, Auditor,
275 Secretary of State, Treasurer, Commissioner of Agriculture and
276 Industries, ~~three public service commissioners, no two of whom~~
277 ~~shall be elected from the same congressional district,~~ Chief
278 Justice and associate justices of the Supreme Court, judges of
279 the courts of appeals, electors for President and Vice
280 President of the United States, United States senators, and



281 such other officers as may be required by law to be elected by
282 the voters of the entire state; for a member of Congress in
283 each congressional district; public service commissioners in
284 each congressional district; judges of the circuit court in
285 each judicial circuit; judges of the district courts in each
286 district; district attorneys in each judicial circuit; a
287 senator in each senatorial district; a representative in the
288 Legislature in each house district; a judge of the probate
289 court, sheriff, clerks of the circuit courts, tax assessor,
290 tax collector, a county treasurer in counties of more than
291 56,000 population, as provided by law, coroner, and members of
292 the county commission in each county, and constables in each
293 precinct of the county."

294 "§17-14-3

295 The Governor, Lieutenant Governor, Attorney General,
296 Auditor, Secretary of State, Treasurer, Commissioner of
297 Agriculture and Industries, senators and representatives in
298 the Legislature, a sheriff in each county, one coroner in all
299 counties having a coroner, and other officers not otherwise
300 provided for, shall be elected on the first Tuesday after the
301 first Monday in November 2006, and every fourth year
302 thereafter. ~~A president of the Public Service Commission shall~~
303 ~~be elected on the first Tuesday after the first Monday in~~
304 ~~November 2008, and every fourth year thereafter. Two associate~~
305 ~~public service commissioners shall be elected on the first~~
306 ~~Tuesday after the first Monday in November 2006, and every~~
307 ~~fourth year thereafter."~~

308 "§36-3-1



309 The Governor, Lieutenant Governor, Attorney General,
310 Auditor, Secretary of State, Treasurer, and Commissioner of
311 Agriculture and Industries, ~~the President of the Public~~
312 ~~Service Commission and two associate public service~~
313 ~~commissioners~~ shall hold their respective offices for the term
314 of four years from the time of their installation in office
315 and until their successors shall be elected and qualified,
316 such installation to take place on the first Monday after the
317 second Tuesday in January next after their election."

318 Section 5. Notwithstanding Section 37-1-3(c), Code of
319 Alabama 1975, as amended by this act, the public service
320 commissioners serving on June 1, 2026, whose term ends after
321 the election held in November 2026 shall continue to serve
322 until January 18, 2027.

323 Section 6. Section 37-1-9, Code of Alabama 1975,
324 providing further for the public service commissioners, is
325 repealed.

326 Section 7. This act shall become effective on June 1,
327 2026.