

1 HB120  
2 164781-2  
3 By Representatives Davis, Wood, Brown, Greer, Sanderford,  
4 Henry, Moore (B), Weaver, Harper, Hill (M), Jones, Tuggle,  
5 McCutcheon, Sessions, Boothe, Baker, Williams (JD), Collins,  
6 Ball, Gaston, Hammon, Hurst, Butler, Faust, South, Drake,  
7 Rich, Whorton (I), Hanes, Ledbetter, Pettus, Patterson,  
8 Whorton (R), Fridy, Treadaway, Rowe, Faulkner, Johnson (K),  
9 Shedd, Harbison, Chesteen, Bracy, Shiver, Polizos, Ingram,  
10 Sells, Clarke, Beech, McCampbell, Wingo, Carns, Hill (J) and  
11 Garrett  
12 RFD: County and Municipal Government  
13 First Read: 03-MAR-15

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8 SYNOPSIS: Under existing law, an electric supplier is  
9 required to serve its customers and expand its  
10 electric system as necessary to fulfill that duty.  
11 Recently established federal regulations may  
12 prevent an electric supplier from constructing and  
13 maintaining the new electric transmission  
14 facilities that it needs to expand its system.

15 This bill would specify that an electric  
16 supplier would have the right to construct and  
17 maintain transmission facilities necessary to  
18 expand its system. The bill would provide for the  
19 appeal of disputes to circuit court.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT

24  
25 Relating to incumbent electric suppliers; to add  
26 Article 7 to Chapter 4 of Title 37, Code of Alabama 1975, to  
27 establish that incumbent electric suppliers have the right to

1       construct, own, operate, and maintain new electric  
2       transmission facilities and upgrades for their own electric  
3       systems; to provide for two or more electric suppliers to  
4       address the circumstance where a new transmission facility  
5       would connect to each of their electric systems; and to  
6       provide for appeals of disputes to the circuit court and for  
7       the venue of appeals.

8       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11              Section 2. The Legislature hereby finds and declares  
12       that due to the economic, financial, and service impacts  
13       associated with the development of electric transmission  
14       facilities used for the furnishing of electric service to  
15       consumers in this state, it is in the public interest to  
16       provide incumbent electric suppliers the right to construct,  
17       own, operate, and maintain new transmission facilities that  
18       connect to their own electric systems. The Legislature further  
19       finds and declares that providing incumbent electric suppliers  
20       this right furthers their ability to satisfy their respective  
21       obligations to provide service to Alabama consumers. This act  
22       implements these findings.

23              Section 3. Article 7 is added to Chapter 4 of Title  
24       37, Code of Alabama 1975, to read as follows:

25              Article 7.

26              §37-4-150.

1 (a) As used in this section, the following words  
2 have the following meanings:

3 (1) COMMISSION. The Alabama Public Service  
4 Commission.

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

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

13 (4) NON-JURISDICTIONAL ELECTRIC SUPPLIER. Any of the  
14 following:

15 a. A municipality that owns or operates an electric  
16 system.

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

26 1. A local act providing that the governing body of  
27 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 Title 37.

9 7. Chapter 6 of Title 37.

10 8. Chapter 7 of Title 37.

11 9. Chapter 7 of Title 39.

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

15 (b) 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 (c) 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  
26 electric suppliers belongs individually and proportionally to  
27 each such incumbent electric supplier whose electric system

1 would connect to the new electric transmission facility,  
2 subject to any existing written agreement between the  
3 incumbent electric suppliers respecting the facilities, unless  
4 otherwise agreed upon in writing.

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

19 (e) In the event of a dispute between incumbent  
20 electric suppliers concerning the right described in  
21 subsection (b) or (c), an incumbent electric supplier may  
22 petition the circuit court for the judicial circuit in which  
23 all or any portion of the electric transmission facility would  
24 be located to determine matters that are in dispute.

25 (f) Nothing in this section shall do any of the  
26 following:

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

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

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

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