



State of Tennessee

PUBLIC CHAPTER NO. 98

SENATE BILL NO. 1266

By Norris

Substituted for: House Bill No. 339

By Moody

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 4, Part 1, relative to the jurisdiction of the Tennessee Regulatory Authority over certain investor-owned electric power providers providing services to certain Tennessee residents.

WHEREAS, Tennessee law, as well as the law of other states, typically requires investor-owned utility companies to have their rates reviewed and approved by the Tennessee Regulatory Authority or comparable state public utility regulators; and

WHEREAS, Entergy Arkansas, Inc. is one such investor-owned electric utility company which serves more than 725,000 customers in Arkansas and the company's rates for its Arkansas customers are subject to review and approval by the Arkansas Public Service Commission; and

WHEREAS, most school children know the Mississippi River serves as the western border of Tennessee and the eastern border of Arkansas; and

WHEREAS, many school children and adults know that the Mississippi River's course is extremely sinuous and often changing; and

WHEREAS, case law has shown an appreciation for constancy in our borders, even when river avulsions have led to rapid changes in the course of the Mississippi River; and

WHEREAS, one such rapid change in the Mississippi River's course occurred in only two days in 1876 and made land once attached to Tipton County, Tennessee, attached to Mississippi County, Arkansas; and

WHEREAS, the United States Supreme Court in the 1918 case of *Arkansas v. Tennessee* has addressed this issue and held that the boundary continues as it was before the 1876 avulsion of the Mississippi River; and

WHEREAS, Arkansas utility providers, including Entergy Arkansas, have continued to serve approximately eight Tipton County, Tennessee, customers on the western side of the Mississippi River; and

WHEREAS, the electricity service for these Tipton County, Tennessee, customers requires that Entergy Arkansas obtain approval of these rates by the Tennessee Regulatory Authority even though such rates have already been approved by the Arkansas Public Service Commission for the similarly situated customers of Entergy Arkansas in Arkansas; and

WHEREAS, this rate review and approval process imposes a significant cost to the utility provider; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-4-104, is amended by designating the existing language as subsection (a) and by adding the following new subsection:

(b)(1) Any investor-owned electric power company serving Tennessee customers on the western side of the Mississippi River shall provide those Tennessee customers

with the same level of service and charge the same rates as the power company provides and charges similarly situated customers in Arkansas.

(2) Upon a finding that an investor-owned electric power provider has engaged in unjust or unreasonable discrimination in service or rates in violation of subdivision (b)(1), the authority may order changes in the provider's services or rates to those Tennessee customers as necessary to enforce subdivision (b)(1).

(3) The authority's jurisdiction over an investor-owned electric power company serving Tennessee customers on the western side of the Mississippi River is limited to hearing a complaint alleging a violation of subdivision (b)(1) and granting appropriate relief as provided in subdivision (b)(2).

(4) Nothing in this subsection (b) removes the duty of any investor-owned electric power company to pay any required inspection and supervision fee to the authority as required by title 65, chapter 4, part 3.

(5) Nothing in this subsection (b) removes the duty of any investor-owned electric power company to pay its otherwise appropriate Tennessee state or local taxes.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

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PASSED: March 20, 2017



RANDY McNALLY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of April 2017



BILL HASLAM, GOVERNOR