

SENATE BILL 273

By Berke

AN ACT to amend Tennessee Code Annotated, Title 65,  
relative to regulation of public utilities.

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

SECTION 1. Tennessee Code Annotated, Section 65-5-103(a), is amended by deleting the second and third sentences and substituting instead the following language:

The burden of proof to show that the increase, change, or alteration is just and reasonable shall be upon the public utility making the same, and in determining whether such increase, change or alteration is just and reasonable, the authority shall take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility; provided that when a determination of the justness or reasonableness of an increase, change, or alteration is made based upon a written complaint by an interested person, such determination shall be made pursuant to subsection (d).

SECTION 2. Tennessee Code Annotated, Section 65-5-103, is amended by adding the following new subsection thereto:

(d)

(1) When the authority is required to determine whether or not a public utility's increase to an existing rate, joint rate, toll, fare, charge, schedule or classification is just and reasonable, and such determination is based upon a written complaint made by an interested person, including but not limited to, the consumer advocate division in the office of the attorney general, such determination shall be made as follows:

(A) The public utility and the interested person shall each submit to the authority a memorandum in which the utility and interested person set out all matters as to which the utility and the interested person agree and all matters as to which the utility and the interested person disagree;

(B) Each memorandum submitted pursuant to subdivision (d)(1)(A) shall contain a final offer for each matter in which the utility and the interested person disagree; and

(C) Notwithstanding any other provision of law to the contrary:

(i) For matters in which the utility and the interested person agree, the authority shall enter a final order which adopts the agreement of the parties; and

(ii) For matters in which the utility and the interested person disagree, the authority shall select, without modification, either the final offer of the utility or the final offer of the interested person.

(2) If the parties reach an agreement on any matter before the authority issues a decision, the utility and the interested person may amend the memorandum submitted pursuant to subdivision (d)(1)(A) to reflect such agreement.

(3) Nothing in this subsection (d) shall be construed as altering or amending the authority's power to hold a contested case hearing pursuant to title 65, chapter 2.

(4) The memorandum submitted pursuant to subdivision (d)(1)(A) shall be submitted to the authority within a time period determined by the authority.

(5) For purposes of this subsection (d), “final offer” means an increase, change or alteration believed to be just and reasonable by the entity submitting such offer.

SECTION 3. Tennessee Code Annotated, Section 65-5-104, is amended by adding the following new subsection thereto:

(c) A public utility shall not be in violation of subsection (a) if the public utility’s rates, joint rates, tolls, fares, charges, schedules or classifications were imposed based on a determination made by the authority pursuant to § 65-5-103(d).

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to any rate, joint rate, toll, fare, charge, schedule or classification increase, change or alteration pending before the Tennessee regulatory authority for which a final order has not been issued prior to the effective date of this act and to any petition filed on or after the effective date of this act for a determination by the Tennessee regulatory authority on the reasonableness of an increase, change or alteration to a rate, joint rate, toll, fare, charge, schedule or classification.