

No. 57

AN ACT

SB 719

Regulating retail electric suppliers in certain areas.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Retail Electric Supplier Unincorporated Area Certified Territory Act.”

Section 2. Definitions.—As used in this act:

“Association or cooperative corporation” means any association or cooperative corporation doing business pursuant to the act of June 21, 1937 (P.L.1969, No.389), known as the “Electric Cooperative Corporation Act.”

“Certified territory” means an unincorporated area as certified pursuant to section 4.

“Commission” means the Public Utility Commission of Pennsylvania.

“Electric-consuming facilities” means everything that utilizes electric energy from a central station source.

“Existing distribution line” means an electric line of a design voltage of 35,000 volts phase to phase or less which on the effective date of this act (i) is located in an unincorporated area; and (ii) is being or has been used for retail electric service.

“Hearing” means a hearing by the commission pursuant to reasonable notice to all affected retail electric suppliers.

“Retail electric service” means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale.

“Retail electric supplier” means any person, firm, corporation, association or cooperative corporation, exclusive of a municipal corporation, engaged in the furnishing of retail electric service.

“Unincorporated area” means a geographical area outside the corporate limits of cities and boroughs.

Section 3. Geographical Areas.—It is hereby declared to be in the public interest that, to encourage the orderly development of retail electric service in unincorporated areas, to avoid wasteful duplication of distribution facilities, to avoid unnecessary encumbering of the landscape of the Commonwealth of Pennsylvania, to prevent the waste of materials and natural resources, to minimize inconvenience,

diminished efficiency and higher costs in serving the consumer, and otherwise for the public convenience and necessity, the Commonwealth is divided into geographical areas, establishing the unincorporated areas within which each retail electric supplier is to provide retail electric service on an exclusive basis.

Section 4. Boundaries of Certified Territories; Hearings.—(a) Except as otherwise provided in this section, no retail electric supplier shall furnish retail electric service in the certified territory of another retail electric supplier.

(b) Except as otherwise provided in this section, the boundaries of the certified territory of each retail electric supplier in any unincorporated area are hereby set as a line or lines substantially equidistant between its existing distribution lines and the nearest existing distribution lines of any other retail electric supplier in every direction, with the result that there is hereby certified to each retail electric supplier such unincorporated area which in its entirety is located substantially in closer proximity to one of its existing distribution lines than the nearest existing distribution line of any other retail electric supplier.

(c) On or before one year after the effective date of this act, or, when requested in writing by a retail electric supplier and for good cause shown, such further time as the commission may fix by order, each retail electric supplier shall file with the commission a map or maps showing all of its existing distribution lines as of the effective date of this act. The commission shall prepare or cause to be prepared within six months thereafter a map or maps of uniform scale to show, accurately and clearly, the boundaries of the certified territory of each retail electric supplier as established under subsection (b) and shall issue such map or maps of certified territory to each retail electric supplier.

(d) In each unincorporated area, where the commission shall determine that the existing distribution lines of two or more retail electric suppliers are so intertwined or located that subsection (b) cannot reasonably be applied, the commission shall, after hearing, certify the service territory or territories for the retail electric suppliers so as to promote the legislative policy stated in section 3.

(e) Each retail electric supplier shall have the right to examine the maps of other retail electric suppliers filed with the commission pursuant to this act; and, if any errors are observed, any retail electric supplier may informally petition the commission for a conference by the affected parties, to resolve the alleged error. The petitioner shall serve a copy of said petition by certified mail on the retail electric supplier whose map is alleged to contain the error. The commission shall arrange a conference as promptly as practicable after receipt of the petition and shall give notice thereof to all retail electric suppliers affected by the alleged error. If said alleged error is not corrected to the satisfaction of

any affected retail electric supplier, such supplier may petition the commission for a hearing and such hearing shall be granted by the commission as promptly as practicable. Upon completion by the commission of maps showing the boundaries of the certified territory of each retail electric supplier as established under subsection (b), each retail electric supplier shall have the right to examine all such maps, and if any errors exist in location of boundary lines, any retail electric supplier aggrieved thereby may informally petition the commission for a conference to resolve the issue of the alleged incorrect location of boundary. The procedure shall be as specified above for resolution of alleged errors in the maps supplied by any retail electric supplier.

(f) After the initial establishment of the certified territory of each retail electric supplier, two or more retail electric suppliers may, from time to time, jointly apply to the commission for adjustment of their adjoining certified territories and, if the commission shall find that such adjustment is consistent with the purposes of this act and its standards, the commission shall approve such adjustment and, to the extent required, shall prepare or cause to be prepared revised maps in accordance with subsection (c) to reflect such adjustment.

Section 5. Obligations and Rights Within Certified Territory. ~~New~~ Electric-consuming Facilities.—(a) Except as otherwise provided herein, each retail electric supplier shall (upon receipt of an application for such service in accordance with such supplier's tariffs, rules or regulations, or bylaws) be obligated, and shall have the exclusive right, to furnish retail electric service to all electric-consuming facilities located within its certified territory and shall not furnish, make available, render or extend its retail electric service to a consumer for use in electric-consuming facilities located within the certified territory of another retail electric supplier; provided that any retail electric supplier may extend its facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect any of its facilities or to serve its consumers within its own certified territory, but any such extension shall not be deemed to be an existing distribution line.

(b) Except as provided in subsections (c) and (e) any new electric-consuming facility located in an unincorporated area which has not as yet been included in a map issued by the commission, pursuant to section 4(c), or certified, pursuant to section 4(d), shall be furnished retail electric service by the retail electric supplier which has an existing distribution line in closer proximity to such electric-consuming facility than is the nearest existing distribution line of any other retail electric supplier. Any disputes under this subsection (b) shall be resolved by the commission.

(c) If the commission, after hearing, shall determine that the retail electric service being furnished or proposed to be furnished by a retail

electric supplier to an electric-consuming facility is inadequate and is not likely to be made adequate, the commission may authorize another retail electric supplier to furnish retail electric service to such facility.

(d) Except as provided in subsection (c), no retail electric supplier shall furnish, make available, render or extend retail electric service to any electric-consuming facility to which such service is being lawfully furnished by another retail electric supplier on the effective date of this act, or to which retail electric service is lawfully commenced thereafter in accordance with this section by another retail electric supplier.

(e) The provisions of this act shall not preclude any retail electric supplier from extending its service after the effective date of this act to its own property and facilities, but any facilities involved in such extension shall not be deemed an existing distribution line.

Section 6. *Borderline Service.*—Notwithstanding the establishment of certified territories pursuant to this act, and the obligations and rights to furnish service within such territory, a retail electric supplier may request another retail electric supplier to render service to one or more electric-consuming facilities where, in the judgment of the requesting retail electric supplier, it would be more economic or otherwise in the public interest for such other retail electric supplier to do so and to enter into a contract for that purpose with such other retail electric supplier.

Section 7. *Effect of Incorporation, Annexation or Consolidation.*—After the effective date of this act, the inclusion by incorporation, consolidation or annexation of any part of the certified territory of a retail electric supplier within the boundaries of any city or borough shall not in any respect impair or affect the rights of the retail electric supplier to continue and extend electric service at retail throughout any part of its certified territory.

Section 8. *Enforcement of Compliance by Commission.*—Upon proceedings brought by an interested person or by action of the commission, the commission shall have the jurisdiction to enforce compliance with this act, and shall have jurisdiction to prohibit furnishing retail electric service by any retail electric supplier except in its certified territory or territories, or where lawfully serving, and in connection with such enforcement and prohibition to exercise all powers herein or otherwise granted to the commission.

Section 9. *Municipal Corporations.*—Nothing contained in this act shall in any respect affect any of the rights, privileges, or obligations of any municipal corporation furnishing retail electric service.

Section 10. *Expenses.*—The expenses of the commission in administering this act shall be assessed by the commission against the affected retail electric suppliers on the following basis:

(1) Such expenses of the commission which relate to the preparation or review of maps to establish the certified territory of a single retail electric supplier in any county, or other area where there is no other

retail electric supplier shall be assessed solely to such single retail electric supplier.

(2) Such expenses of the commission which relate to the preparation or review of maps to establish the certified territories of two or more retail electric suppliers in any county, or other area where there are two or more retail electric suppliers shall be assessed in equal shares among such retail electric suppliers.

(3) Such expenses of the commission which relate to the consideration and disposition of alleged errors pursuant to section 4(e) and the consideration and disposition of proposed adjustments pursuant to section 4(f) shall be assessed in equal shares among the retail electric suppliers affected thereby.

(4) Such expenses of the commission which relate to the enforcement by the commission of compliance with this act shall be assessed in equal shares against the retail electric supplier or suppliers to which an order of enforcement is directed. If such enforcement proceedings were initiated by a retail electric supplier or suppliers and if no order of enforcement is issued by the commission, such expenses shall be assessed in equal shares against the retail electric supplier or suppliers initiating such proceedings.

(5) Any other such expenses of the commission shall be assessed by the commission in equal shares among the retail electric suppliers that are subject to this act.

(6) The commission may, if it deems such action appropriate, assess such expenses on the basis of estimates made by it, with appropriate adjustment or credit after final determination of such expenses.

Section 11. Complete in Itself.—This act is complete in itself and shall be controlling. It shall not be a part of any other law in this Commonwealth.

Section 12. Effective Date.—This act shall take effect immediately.

APPROVED—The 30th day of July, A. D. 1975.

MILTON J. SHAPP