



Alabama

State Guide to Utility Energy Efficiency Planning

State Guide to Utility Energy Efficiency Planning: Alabama

I. Alabama Utility Landscape

A. Utilities in Alabama

In Alabama, three types of electricity providers sell electric power to retail customers: investor-owned utilities (IOUs), electric membership corporations (cooperatives), and municipally owned utilities. The following chart lists the number of each of these types of providers, along with the percentage of Alabama's electricity customers served by each type of utility:

Electric Utilities in Alabama

Type of Provider	Quantity	Percentage of AL Electricity Customers Served
Investor-Owned Utilities	1	57%
Electric Membership Corporations	24	22%
Municipal Utilities	26	21%

Source: U.S. Energy Information Administration, Form EIA-861, [2018 Annual Electric Power Industry Report](#)

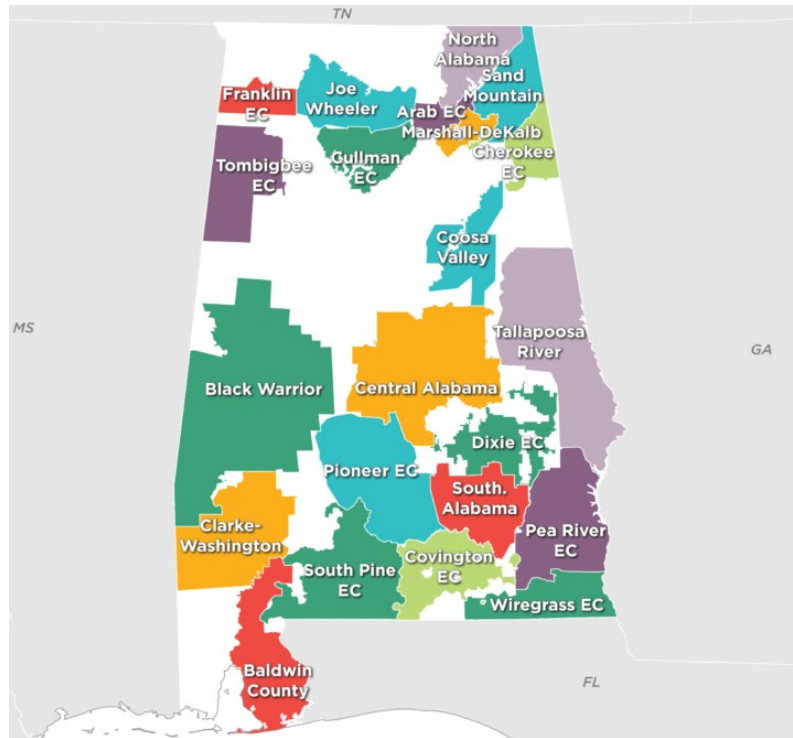
The state's sole IOU, Alabama Power Co, serves fifty-seven percent of Alabama electricity customers. The remaining forty-three percent are served by cooperatives, municipalities, and the Tennessee Valley Authority (TVA). Information on the five largest utilities in Alabama (by sales) is provided in the chart below:

Five Largest Utilities in Alabama by Sales

Utility Name	Type of Provider	Revenue (Thousand USD)	Sales (MWh)	Number of Customers	Average Price (cents/kWh)
Alabama Power Company	IOU	5,475,948.0	55,686,192	1,480,475	9.83
Tennessee Valley Authority	Federal	231,476.0	5,421,014	11	4.27
Huntsville Utilities	Municipal	517,169.0	5,351,996	184,856	9.66
Joe Wheeler EMC	Cooperative	154,191.0	1,744,801	43,480	8.84
Baldwin County EMC	Cooperative	163,229.0	1,462,879	76,711	11.16

Source: U.S. Energy Information Administration, Form EIA-861, [2018 Annual Electric Power Industry Report](#)

Service Territories for Cooperative Utilities in Alabama



Source: National Rural Electric Cooperative Association, [Co-op Map of Alabama](#) (2018)

II. General Information

The Alabama Public Service Commission (PSC or the commission) is the state administrative agency charged with regulating Alabama’s public utilities.¹ The commission’s purpose is to “ensure a regulatory balance between regulated companies and consumers in order to provide consumers with safe, adequate and reliable services at rates that are equitable and economical.”² The commission is composed of three commissioners and a variety of other employees appointed or hired to assist the commission in carrying out its duties.³

A. Relationship with State Legislature

The commission derives its authority from the 1975 Code of Alabama. By statute, the General Assembly granted the commission with broad authority to regulate the rates, services, and operations of IOUs within the state.⁴ The General Assembly may expand, limit, or alter the

¹ This profile focuses only on the electricity sector, although the Alabama PSC also regulates natural gas, telecommunications, water, wastewater, and transportation. The commission has broad authority over IOUs and much more limited authority over the state’s cooperatives and municipally owned utilities. For the purposes of this profile, we will focus on the regulation of the electricity sector.

² Alabama Public Service Commission, [Mission](#)

³ Al. Code Ann. § 37-1-12.

⁴ Al. Code Ann. § 37-1-32.

commission’s authority by statute. Commissioners and the president of the commission are elected by the general public; the president is elected in a U.S. Presidential election year, while the associate commissioners are elected in a gubernatorial election year.⁵

B. Commission Structure

Commissioners serve for four-year terms, with no limit on the number of consecutive terms a commissioner may serve. The commission does not require bipartisan representation on the commission; however, the Alabama Code requires that “no person owning any stock in any utility, or in the employment of any utility or peculiarly interested in any utility, as defined in this title, shall be eligible to the office of public service commissioner.”⁶

Alabama Public Service Commissioners

Name	Term Start	Term End	Contact
Twinkle A. Cavanaugh (R) <i>President</i>	11/05/2010	11/08/2020	334-242-5297 Twinkle.Cavanaugh@psc.alabama.gov
Jeremy H. Oden (R) <i>Commissioner</i>	11/05/2012	11/05/2022	334-242-5203 Jeremy.Oden@psc.alabama.gov
Chris “Chip” Beaker (R) <i>Commissioner</i>	11/05/2014	11/05/2022	334-242-5191 Chris.Beaker@psc.alabama.gov

C. Overview of Commission Proceedings

As noted above, the commission regulates most aspects of service for Alabama Power, but does not regulate the state’s twenty-four cooperatives or twenty-seven municipal utilities.⁷ The commission exercises its regulatory authority by setting policies, fixing rates, and approving utility programs and infrastructure investments.

The commission typically relies on informal proceedings to make its regulatory decisions. Informal proceedings are similar to administrative hearings wherein parties present evidence, although not under oath, and which are less adversarial in nature than formal proceedings. The commission is empowered to set the rules of procedure for such proceedings, although all hearing and orders must be made available to the public, according to statute.⁸ Commissioners or individuals appointed by the commission may act as special examiners and are authorized to administer oaths and hear and take evidence when deemed appropriate by the commission. Independent special examiners submit evidentiary findings to the commissioners, and the commission itself issues a final ruling.⁹ The commission has ninety days after the completion of hearings to make a decision. If a decision

⁵ Al. Code Ann. § 37-1-3.

⁶ Al. Code Ann. § 37-1-6.

⁷ Al. Code Ann. § 37-1-34, 37-4-2.

⁸ Al. Code Ann. § 37-1-38.

⁹ Al. Code Ann. § 37-1-89.

cannot be reached in that period, the commission may file for an extension period not to exceed ninety days.¹⁰ All findings and rulings of the commission are made public.¹¹ All final judgments of the commission are entitled to direct appeal to the Montgomery County Circuit Court.¹²

D. Commission Staff

Within the commission, the utility services division and the electricity policy division are responsible for providing technical assistance and policy recommendations to the commissioners in addition to reviewing documents and proceedings. See the chart below for contact information for the commission’s executive director and for key division directors.

Alabama Public Service Commission Key Staff

John Garner <i>Executive Director</i> John.Garner@psc.alabama.gov	PSC Phone: 334-242-5218 PSC Fax: 334-242-0509
John Free <i>Director, Electricity Policy</i> John.Free@psc.alabama.gov	
Darrell Baker <i>Director, Utility Services Division</i> Darrell.Baker@psc.alabama.gov	

Source: [National Association of Regulatory Utility Commissioners](#)

III. Other Involved Agencies

Alabama’s Energy Division is housed in the Alabama Department of Economic and Community Affairs (ADECA).¹³ The state legislature created ADECA as an arm of the governor’s office in 1983. The director is a member of the governor’s cabinet.¹⁴ ADECA is responsible for administering a range of state and federal programs as well as building energy codes and revolving loan funds.

IV. Existing State Policies for Energy Efficiency

¹⁰ Al. Code Ann. § 37-1-94.

¹¹ [Al. Code Ann. § 37-1-62](#). Official copies can be obtained from the commission clerk.

¹² Al. Code Ann. § 37-1-120—121.

¹³ ADECA, [Divisions](#)

¹⁴ Al. Code Ann. 41-23-4.

A. Cost Recovery

IOUs are allowed to recover the projected and actual costs of designing, implementing, and operating energy efficiency programs; Alabama utilities are also allowed to recover a rate of return on efficiency spending via a rate rider.¹⁵ Alabama Power recovers retail costs through a formulary rate approach called Rate Stabilization and Equalization (Rate RSE) and recovers costs relating to generation facilities, power purchase agreements, and environmental rules and mandates through Rate Certified New Plant-Environmental (Rate CNP-Environmental).¹⁶ The mechanism for cost recovery of energy efficiency investments is unclear.

B. State Policies for Energy Efficiency

Alabama currently does not have energy efficiency resource standards or goals; there are no regulatory or legislative mandates requiring utilities to use cost-effectiveness tests or to disclose the results of any cost-effectiveness testing that is done. In addition, there are no opt-out provisions for large customers within the state, meaning that all customers must pay for energy efficiency programs implemented at the utility level, even if they are not able to participate.¹⁷ Alabama Power appears to typically rely upon the Ratepayer Impact Measure (RIM) test for cost-effectiveness testing.¹⁸

V. Utility Energy Efficiency Planning Process

This section provides an overview of the processes and timelines by which utilities develop, obtain regulatory approval for, and administer their energy efficiency programs. It will also discuss the requirements and opportunities for third party stakeholders to intervene or otherwise engage in each part of this planning process.

A. Formal Proceedings Before the Commission

i. *Integrated Resource Planning*

Alabama does not require utilities to develop and file Integrated Resource Plans (IRPs). Alabama Power voluntarily files an IRP with the commission every three years. Its IRP process “analyzes Alabama Power’s future generation resource needs, including: all types of new generation resources, significant changes in generation, equivalent demand-side resources, and the expectation for new capacity needs, environmental emission limitations and the process by which [the Company] determine[s] the optimal mix of those projected additions.”¹⁹ The documentation made available to the public is a summary of the plan, published after the commission has given approval,

¹⁵ [ACEEE State Scorecard](#)

¹⁶ See section IV and V for more information on Rate RSE and Rate CNP-Environmental

¹⁷ [ACEEE State Scorecard](#)

¹⁸ Conversations with representatives from the Energy and Policy Institute.

¹⁹ <https://www.alabamapower.com/our-company/how-we-operate/regulation/integrated-resource-plan.html>.

and does not provide economic analyses. There are no public hearings or other opportunities for the public to participate throughout the IRP process.²⁰

In 2007, the commission opened a docket to consider standards proposed by the Energy Independence and Security Act. The act intended to integrate energy efficiency measures into utility integrated resource planning and to modify rate designs to promote investments in energy efficiency. Upon conclusion of the proceeding, the commission found that Alabama's sole IOU had already established an IRP process and commission-approved rates, programs, and initiatives that achieved both goals of the act. Accordingly, the commission found it unnecessary to adopt any additional policies.²¹

ii. *Approval of IOU Energy Efficiency Programs*

According to the utility website, Alabama Power offers four energy savings programs: discounted air filters, energy usage data on a customer portal, electric transportation research and development projects, and home energy assessments. Commission approval was not required for these programs.

iii. *Rate Cases*

Generally housed in a combined docket, revisions to the Rate Stabilization and Equalization Factor (Rate RSE) and environmental cost recovery are reviewed and adjusted annually.²² The purpose of the Rate RSE is to lessen the impact, frequency and size of retail rate increase requests by permitting the company to adjust its charges to achieve the rate of return allowed it in the rate order of the commission. The charges are increased if projections for the upcoming year show that the designated rate of return range will not be met and are decreased if such projections show that the designated rate of return range will be exceeded.²³ Alabama Power submits an application to the commission each fall to recover environmental investments and associated operating costs through the Rate Certified New Plant – Environmental (Rate CNP-Environmental) formula. The company files a summary environmental compliance plan and summary Rate CNP-Environmental calculations in November. The commission conducts an informal public meeting each December and allows the public to ask questions. However, there are no official public evidentiary hearings, meaning that there is, “no pre-filed testimony from the Company offering any economic justification for the investments that it is seeking to recover through rates; no Commission-mandated requirement that the Company provide any additional information or documents in response to discovery questions from the public; and no requirement that witnesses testify under oath.”²⁴

²⁰ Institute for Energy Economics and Financial Analysis (IEEFA), *Left in the Dark*. Pages 5-6. February 26, 2015.

²¹ [APSC Docket No. 31045](#)

²² [APSC Docket Nos. 18117 and 18416](#)

²³ [Rate RSE Rate Stabilization and Equalization](#), Alabama Power Company, June 1, 2018.

²⁴ Institute for Energy Economics and Financial Analysis (IEEFA), *Left in the Dark*. Page 7. February 26, 2015.

B. Opportunities for Third-Party Engagement

The commission is statutorily authorized to hold public hearings for formal proceedings; however, most electric utility proceedings in Alabama are informal and are consequentially often inaccessible to the public.

iv. *Formal and Informal Proceedings*

Commissioners are expected to convene at least once a month to conduct business; the public information officer is expected to give public notice at least one week prior to the meeting.²⁵ The Alabama Code states that, “the commission may adopt and publish rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings before it, provided all hearings shall be open to the public.”²⁶ In addition, the code maintains that “all reports, records, and accounts in the possession of the commission shall be open to inspection by the public at all times...”²⁷ The commission is entitled to hold public hearings while conducting investigations with or without complaint.²⁸ In practice, the commission has generally not readily shared documents with the public and there are few opportunities for the public to participate in commission hearings.²⁹

According to statute, “every person, firm, co-partnership, association, or organization affected thereby may by petition intervene and become a party to any proceeding before the commission.”³⁰ However, the public often has minimal opportunities to participate in commission proceedings and limited information on participation. Members of the public may participate in an informal capacity in the annual proceedings on environmental cost recovery and rate stabilization and equalization.

The commission’s docket is made public online.³¹ All proceedings before the commission should appear on the docket. Using key terms and filters is often the best way to find matters of interest.

v. *Other Means of Engagement*

Ex parte rules do not generally prohibit third parties from directly engaging with commissioners, commission staff, or utilities on matters of interest to them, provided a person or group is not party to a “a formal public and open hearing or proceeding” before the commission.³² Contact information for the current commission and commission staff are located on pages 4 and 5 of this profile.

²⁵ Ala. Code Ann. 37-1-8.

²⁶ Ala. Code Ann. 37-1-38.

²⁷ Ala. Code Ann. 37-1-62.

²⁸ Ala. Code Ann. 37-1-85.

²⁹ Institute for Energy Economics and Financial Analysis (IEEFA), *Left in the Dark*. February 26, 2015.

³⁰ Ala. Code Ann. 37-1-87.

³¹ [PSC Case Docket Search](#)

³² [Rules of Practice of the Alabama Public Service Commission](#), Rule 25.