

SENATE BILL 389

By Oliver

AN ACT to amend Tennessee Code Annotated, Title 7;
Title 65 and Title 68, relative to utilities.

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

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 51, is amended by adding the following as a new part:

7-51-2401.

As used in this part:

(1) "Extended interruption or loss" means a loss of a vital utility service for twelve (12) consecutive hours or longer, or twelve (12) cumulative hours over a twenty-four-hour period;

(2) "Utility" means:

(A) An entity subject to the jurisdiction of the water and wastewater financing board, or a successor board, in accordance with § 68-221-1008;

(B) An entity subject to the utility management review board, or a successor board, in accordance with § 7-82-702;

(C) A cooperative, as defined in § 65-25-102; or

(D) A county-owned or municipality-owned utility that provides electric, natural gas, or water and wastewater services to the public; and

(3) "Vital utility service" means electric, natural gas, or water and wastewater service.

7-51-2402.

(a)

(1) A utility shall provide a refund or reimbursement, or a rebate against future billing for a vital utility service, to a customer who experiences an extended interruption or loss, or a permanent loss, of a vital utility service if the loss or interruption of service was the direct result of the utility's:

(A) Failure to maintain, repair, or secure its network, equipment, or property, when the utility knew or should have known about the need for the maintenance, repair, or security in advance of the interruption or loss of service;

(B) Negligence or gross negligence in maintaining, repairing, or securing its network, equipment, or property, or in providing the service;
or

(C) Willful or intentional conduct that led to the loss or interruption of service.

(2)

(A) A utility that is required to provide a refund, reimbursement, or rebate, pursuant to subdivision (a)(1), shall provide a refund, reimbursement, or rebate that is equal to the actual costs reasonably and necessarily incurred by a customer as a direct result of the interruption or loss of service.

(B) The full refund, reimbursement, or rebate must be provided within six (6) months of the date the utility received a claim filed by the customer pursuant to § 7-51-2403.

(b) For purposes of this part, the conduct of a utility's employee, agent, or a third party, acting within the scope of the employee's, agent's, or third party's employment or other capacity on behalf of the utility is an act by the utility.

7-51-2403.

(a) By July 1, 2024, or within one (1) year after a utility is formed, whichever is later, a utility shall prepare and implement a claim filing system for use by a utility's customer for purposes of submitting a claim for a refund, reimbursement, or rebate, described in § 7-51-2402. The system must include the capability of accepting a claim filed either electronically or in person.

(b) A utility may require a customer to reasonably demonstrate and provide evidence for the claimed damages and costs, excluding the actual billing rates at which the utility will be charged with computing, for which the customer submits a claim.

(c) A utility shall provide notice to its customers about the claims filing system. The notice must be provided with each invoice or billing statement sent to the customer, and within five (5) days following a permanent or extended loss, or extended interruption, of a vital utility service, and must include the following information:

- (1) What constitutes an extended interruption or loss of a vital utility service;
- (2) What services are considered a vital utility service, for purposes of this part;
- (3) How to file a claim using the utility's claim filing system;
- (4) The timeframe in which the utility must issue a refund, reimbursement, or rebate; and
- (5) The customer's right to bring a private cause of action for a utility's violation of this part.

7-51-2404.

(a) In addition to filing a claim pursuant to § 7-51-2403, a customer of a utility that violates this part may bring a private cause of action against the utility. A cause of

action brought pursuant to this subsection (a) must be brought in a court of competent jurisdiction within the county in which the customer receives the vital utility service.

(b) A court that finds that a utility violated this part may award the following to the customer:

- (1) Actual damages; and
- (2) Costs and attorneys' fees.

SECTION 2. Tennessee Code Annotated, Title 65, is amended by adding the following as a new chapter:

65-38-101.

As used in this chapter:

- (1) "Extended interruption or loss" means a loss of a vital utility service for twelve (12) consecutive hours or longer, or twelve (12) cumulative hours over a twenty-four-hour period;
- (2) "Utility" means a public utility that provides electric, natural gas, or water and wastewater services to the public; and
- (3) "Vital utility service" means electric, natural gas, or water and wastewater service.

65-38-102.

(a)

(1) A utility shall provide a refund or reimbursement, or a rebate against future billing for a vital utility service, to a customer who experiences an extended interruption or loss, or a permanent loss, of a vital utility service if the loss or interruption of service was the direct result of the utility's:

- (A) Failure to maintain, repair, or secure its network, equipment, or property, when the utility knew or should have known about the need

for the maintenance, repair, or security in advance of the interruption or loss of service;

(B) Negligence or gross negligence in maintaining, repairing, or securing its network, equipment, or property, or in providing the service; or

(C) Willful or intentional conduct that led to the loss or interruption of service.

(2)

(A) A utility that is required to provide a refund, reimbursement, or rebate, pursuant to subdivision (a)(1), shall provide a refund, reimbursement, or rebate that is equal to the actual costs reasonably and necessarily incurred by a customer as a direct result of the interruption or loss of service.

(B) The full refund, reimbursement, or rebate must be provided within six (6) months of the date the utility received a claim filed by the customer pursuant to § 65-38-103.

(b) For purposes of this chapter, the conduct of a utility's employee, agent, or a third party, acting within the scope of the employee's, agent's, or third party's employment or other capacity on behalf of the utility is an act by the utility.

65-38-103.

(a) By July 1, 2024, or within one (1) year after a utility is formed, whichever is later, a utility shall prepare and implement a claim filing system for use by a utility's customer for purposes of submitting a claim for a refund, reimbursement, or rebate, described in § 65-38-102. The system must include the capability of accepting a claim filed either electronically or in person.

(b) A utility may require a customer to reasonably demonstrate and provide evidence for the claimed damages and costs, excluding the actual billing rates at which the utility will be charged with computing, for which the customer submits a claim.

(c) A utility shall provide notice to its customers about the claims filing system. The notice must be provided with each invoice or billing statement sent to the customer, and within five (5) days following a permanent or extended loss, or extended interruption, of a vital utility service, and must include the following information:

- (1) What constitutes an extended interruption or loss of a vital utility service;
- (2) What services are considered a vital utility service, for purposes of this chapter;
- (3) How to file a claim using the utility's claim filing system;
- (4) The timeframe in which the utility must issue a refund, reimbursement, or rebate; and
- (5) The customer's right to bring a private cause of action for a utility's violation of this chapter.

65-38-104.

(a) In addition to filing a claim pursuant to § 65-38-103, a customer of a utility that violates this chapter may bring a private cause of action against the utility. A cause of action brought pursuant to this subsection (a) must be brought in a court of competent jurisdiction within the county in which the customer receives the vital utility service.

(b) A court that finds that a utility violated this chapter may award the following to the customer:

- (1) Actual damages; and
- (2) Costs and attorneys' fees.

SECTION 3. This act takes effect July 1, 2023, the public welfare requiring it, and applies to extended interruptions or losses, or permanent losses, of vital utility services occurring on or after that date.