

"AN ACT TO AMEND SUBSECTIONS E AND F OF SECTION 3 OF ACT 40 OF 1945, THE SAME BEING ARK. STAT. ANN. 73-248 AND 73-249, RESPECTIVELY, IN ORDER TO CLARIFY THE AMOUNT OF GROSS EARNINGS SUBJECT TO ASSESSMENT, TO PREVENT DOUBLE ASSESSMENT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection E of Section 3 of Act 40 of 1945, as amended, the same being Arkansas Statute 73-248, is hereby amended to read as follows:

"E. Annually, during the month of March, each utility heretofore by law subject to the payment of fees or charges under the jurisdiction of the Department of Public Utilities as created by Act 324 of the General Acts of the General Assembly of the State of Arkansas for the year 1935, shall prepare and transmit to the Commission a certified statement of the gross earnings from its properties in Arkansas for the preceding calendar year ending December 31. No deduction shall be made from such gross earnings on account of any payments, or expense, or uncollectible accounts, except refunds occasioned by errors or overcharge. Upon receipt of the said certified statements the Commission shall determine the total gross earnings of all of said utilities; provided, however, that any utility may deduct from such gross earnings any amounts derived from wholesale sales of electricity to any other utility, an electric cooperative corporation, or any other entity at wholesale rates regulated by the Arkansas Public Service Commission or the Federal Energy Regulatory Commission.

SECTION 2. Subsection F of Section 3 of Act 40 of 1945, the same being Arkansas Statute 73-249, is hereby amended to read as follows:

"F. There is hereby levied and charged, and there shall be collected annually from each utility, heretofore by law subject to the payment of fees or charges under the jurisdiction of the Department of Public Utilities as created by Act 324 of the General Acts of the General Assembly of the State of Arkansas for the year 1935, a fee in an amount which shall be equivalent to that proportion of the total utilities costs that the gross earnings of each of the said utilities bear to the total gross earnings of all utilities. Provided, however, the fee so to be collected annually from each of the said utilities shall not exceed, in any year, an amount exceeding 2/5 of 1% of the gross earnings of each respective utility. Provided further, that in determining the amount of any such fee for any individual utility pursuant to this section, the amount of gross earnings subject to such levy shall be reduced by any amounts derived from the sale of electricity to any other utility, an electric cooperative corporation or any other entity at wholesale rates regulated by the Arkansas Public Service Commission or the Federal Regulatory Energy Commission.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. It is hereby found and determined by the General Assembly that substantial uncertainty exists with respect to the interpretation and application of Subsections E and F of Section 3 of Act 40 of 1945 to wholesale

sellers of electricity to electric cooperative corporations and that as a result of such uncertainty, the fees assessed against certain utilities are unfair and represent a double assessment on the same units of electricity; that clarification of Act 40 will provide an immediate, direct, and substantial benefit to the ratepayers of such utilities by lowering overall costs; and that this Act will provide necessary clarity to Act 40. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: April 8, 1987

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