

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S4/3/13
A Bill

SENATE BILL 795

5 By: Senator Rapert
6 By: Representative Wren
7

8 **For An Act To Be Entitled**

9 AN ACT TO REGULATE ELECTRIC DEMAND RESPONSE; AND FOR
10 OTHER PURPOSES.

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13 **Subtitle**

14 TO REGULATE ELECTRIC DEMAND RESPONSE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 10 – Regulation of Electric Demand Response Act
22 23-18-1001. Title.

23 This subchapter shall be known and may be cited as the "Regulation of
24 Electric Demand Response Act".
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26 23-18-1002. Definitions.

27 As used in this subchapter:

28 (1)(A) "Aggregator of retail customers" means a person that
29 aggregates demand response from *retail* customers for the purpose of
30 marketing, selling, or marketing and selling the aggregated demand response:

31 (i) To an electric public utility; or

32 (ii) Into a wholesale electricity market.

33 (B) "Aggregator of retail customers" does not include:

34 (i) An electric public utility to the extent that it
35 engages in demand response programs or demand response aggregation activities
36 with the *retail* customers in its own service territory as certificated by *the*



1 Arkansas Public Service Commission; or

2 (ii) A municipally owned electric utility or
3 consolidated municipal utility improvement district to the extent that it
4 engages in demand response programs or demand response aggregation activities
5 with the retail customers in its own service territory; and

6 (2)(A) "Demand response" means a reduction in the consumption of
7 on-peak or off-peak electric energy by a retail customer served by an
8 electric public utility or a municipally owned electric utility or
9 consolidated municipal utility improvement district relative to the retail
10 customer's expected consumption in response to:

11 (i) Changes in the price of electric energy to the
12 retail customer over time; or

13 (ii) Incentive payments designed to induce lower
14 consumption of electric energy.

15 (B) "Demand response" includes demand response resources
16 capable of providing demand response.

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18 23-18-1003. Authority to regulate demand response.

19 (a) The marketing, selling, or marketing and selling of demand
20 response within the State of Arkansas by electric public utilities or
21 aggregators of retail customers to retail customers or by electric public
22 utilities, aggregators of retail customers, or retail customers into
23 wholesale electricity markets is subject to regulation by:

24 (1) The Arkansas Public Service Commission under Acts 1935, No.
25 324, as amended; or

26 (2) The local governing authority in the case of a municipally
27 owned electric utility or a consolidated municipal utility improvement
28 district.

29 (b) The commission:

30 (1) May establish the terms and conditions for the marketing,
31 selling, or marketing and selling of demand response by electric public
32 utilities or aggregators of retail customers to retail customers or by
33 electric public utilities, aggregators of retail customers, or retail
34 customers into wholesale electricity markets; and

35 (2) Shall not regulate demand response investments or demand
36 response actions of a retail customer on the customer's side of the electric

1 meter.

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3 23-18-1004. Marketing or selling of demand response prohibited.

4 The marketing, selling, or marketing and selling of demand response
5 into wholesale electricity markets by an aggregator of retail customers or by
6 a retail customer is prohibited unless the Arkansas Public Service Commission
7 or the governing authority of a municipally owned electric utility or a
8 consolidated municipal utility improvement district determines that the
9 marketing, selling, or marketing and selling of demand response into
10 wholesale electricity markets by aggregators of retail customers or by retail
11 customers is in the public interest.

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13 23-18-1005. Applicability.

14 This subchapter does not prevent a nonresidential customer from opting
15 out in accordance with § 23-3-405 of energy conservation programs and
16 measures as defined in § 23-3-403.

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18 /s/Rapert

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21 **APPROVED: 04/11/2013**