

ARKANSAS SENATE
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of Senate Bill No. 190

TO MAKE TECHNICAL CORRECTIONS TO TITLE 23 OF THE ARKANSAS CODE CONCERNING PUBLIC
UTILITIES AND REGULATED INDUSTRIES.

Amendment No. 1 to Senate Bill No. 190

Amend Senate Bill No. 190 as originally introduced:

Page 1, delete lines 22 through 28 and substitute the following:

"SECTION 1. Because the section of the United States Code referenced in Arkansas Code § 23-1-101(5)(B) has been repealed by the United States Congress, Arkansas Code § 23-1-101(5), concerning the definition of "exempt wholesale generator", is amended to read as follows:

(5) "Exempt wholesale generator" means a person, including an affiliate of a public utility, that:

(A) Is engaged directly or indirectly through one (1) or more affiliates ~~and~~ exclusively in the business of owning or operating all or part of a facility for generating electric energy and selling electric energy at wholesale; and ~~who:~~

~~(A)(B)~~ Does not own or operate a facility for the transmission of electricity other than interconnecting transmission facilities used to effect a sale of electric energy at wholesale; ~~and~~

~~(B) Has applied to the Federal Energy Regulatory Commission for a determination under 15 U.S.C. § 79z-5a;~~

SECTION 2. Arkansas Code § 23-17-409(b)(1), concerning a prohibition on the provision of certain telecommunications services, is amended to read as follows to correct an internal reference:

(b)(1) Except as provided in subdivision (b)(2) of this section, a government entity may not provide, directly or indirectly, basic local exchange, voice, data, broadband, video, or wireless telecommunication service.

SECTION 3. Because the term "major electric transmission facility" is undefined and to further clarify the wording of the section, Arkansas Code § 23-18-510 is amended to read as follows:

23-18-510. Certificate of environmental compatibility and public need – Requirement – Exceptions.

(a)(1) ~~No person shall commence to construct a major utility facility in the state, except those~~ Except for persons exempted as provided in



subsection (c) of this section and §§ 23-18-504(a) and 23-18-508, a person shall not begin construction of a major utility facility in the state, without first ~~having obtained~~ obtaining a certificate of environmental compatibility and public need, ~~hereafter called a "certificate", issued with respect to~~ for the major utility facility by ~~from~~ the Arkansas Public Service Commission.

(2) The replacement or expansion of an existing transmission facility with a similar facility in substantially the same location or the rebuilding, upgrading, modernizing, or reconstruction for the purposes of increasing capacity shall not constitute construction of a major utility facility if no increase in width of right-of-way is required.

(b) ~~No~~ An entity, including ~~but not limited to,~~ without limitation a person, public utility, utility, regional transmission organization, municipality, merchant transmission provider, merchant generator, or other entity, whether regulated or not by the commission, shall ~~commence to construct a major electric transmission facility, as defined in § 23-18-503~~ not begin construction of an electric transmission line and associated facilities, as described in § 23-18-503(6)(B), within a national interest electric transmission corridor without first ~~having obtained~~ obtaining a certificate of environmental compatibility and public need ~~issued with respect to such a~~ for the facility by ~~from~~ the commission.

(c) ~~Nothing in this subchapter shall be construed to~~ This subchapter does not require a certificate under this subchapter of environmental compatibility and public need or an amendment thereof of such a certificate for:

(1) Reconstruction, alteration, or relocation of ~~any~~ a major utility facility ~~which that~~ that must be reconstructed, altered, or relocated because of the requirements of ~~any~~ a federal, state, or county governmental body or agency for purposes of highway transportation, public safety, or air and water quality; or

(2) ~~Any major electric transmission facility~~ An electric transmission line and associated facilities including substations of a design voltage of one hundred kilovolts (100 kV) or more to be constructed or operated by a municipal electric utility system that is located within the territorial limits of ~~such the~~ the municipal electric utility system.

(d) ~~Any~~ An entity granted a certificate of environmental compatibility and public need pursuant to subsection (b) of this section shall have the right of eminent domain as provided by Arkansas law for the limited purpose of constructing the certificated ~~major electric transmission facility~~ electric transmission line and associated facilities, as described in § 23-18-503(6)(B), to the extent that the facility is located within a national interest electric transmission corridor."

AND

Page 1, line 30, delete "SECTION 2." and substitute "SECTION 4."

AND

Page 2, delete line 14 and substitute the following:

"SECTION 5. Because the reference to a major utility facility is incomplete, Arkansas Code § 23-18-519(b)(9), concerning the energy efficiency

of a major utility facility, is amended to read as follows:

(9) That the energy efficiency of the major utility facility, as described in § 23-18-503(6)(A), has been given significant weight in the decision-making process;

SECTION 6. Arkansas Code § 23-63-1304(a), concerning the definition of"

AND

Renumber the remaining sections of the bill.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator D. Johnson

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Secretary