

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: H3/14/07*

# A Bill

HOUSE BILL 2543

5 By: Representative Wood  
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## For An Act To Be Entitled

9 AN ACT TO ENHANCE THE ABILITY OF THE ARKANSAS  
10 PUBLIC SERVICE COMMISSION TO PROTECT RATEPAYERS  
11 IN PROCEEDINGS BEFORE THE FEDERAL ENERGY  
12 REGULATORY COMMISSION, OTHER FEDERAL AGENCIES,  
13 AND FEDERAL COURTS; AND FOR OTHER PURPOSES.  
14

## Subtitle

15 TO ENHANCE THE ABILITY OF THE ARKANSAS  
16 PUBLIC SERVICE COMMISSION TO PROTECT  
17 RATEPAYERS IN PROCEEDINGS BEFORE THE  
18 FEDERAL ENERGY REGULATORY COMMISSION,  
19 OTHER FEDERAL AGENCIES, AND FEDERAL  
20 COURTS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 23-4-102 is amended to read as follows:

27 23-4-102. Commission's authority over interstate rates, charges, ~~and~~  
28 classifications, and other actions.

29 (a) The ~~commission~~ Arkansas Public Service Commission shall have the  
30 power to investigate all existing or proposed interstate rates, charges, and  
31 classifications, and all rules and practices in relation thereto promulgated  
32 and prescribed by or for any public utility as defined in § 23-1-101, when  
33 the matters so investigated shall affect the public of this state.

34 (b) When the existing or proposed interstate rates, charges, and  
35 classifications are in the opinion of the ~~commission~~ Arkansas Public Service  
36 Commission excessive or discriminatory, or in violation of ~~the Interstate~~



1 ~~Commerce Act and acts amendatory thereof and supplementary thereto, or in~~  
2 ~~violation of any other act of Congress, or in conflict with the rules,~~  
3 ~~orders, or regulations of the Interstate Commerce Commission [abolished] or~~  
4 ~~any other a~~ commission created by Congress, the ~~commission~~ Arkansas Public  
5 Service Commission may apply by petition or otherwise to the Interstate  
6 Commerce Commission [abolished], or other commission having jurisdiction, for  
7 relief seek relief in the appropriate commission or in a court of competent  
8 jurisdiction.

9 (c) For the purpose of this section, the Arkansas Public Service  
10 Commission:

11 (1) Is exempt from the provisions of § 25-16-702 whenever the  
12 commission is a party to a proceeding under subsection (b) of this section;

13 (2) May retain contract attorneys or contract consultants; and

14 (3)(A) May adopt rules for direct recovery of the fees and  
15 expenses of contract attorneys and consultants from the affected utility  
16 under this section provided that such utility is an electric public utility  
17 which is owned by a public utility holding company as defined by section 1261  
18 of the *Energy Policy Act of 2005, Pub. L. No. 109-58. The maximum amount*  
19 *that may be directly recovered from an affected utility shall be three*  
20 *million dollars (\$3,000,000) annually.*

21 (B) In the event the Commission directly recovers the fees  
22 and expenses of its attorneys and consultants from an affected utility under  
23 this section, that utility shall be allowed to implement a surcharge  
24 mechanism to recover only the expenses directly recovered from that utility.

25 (i) The surcharge shall be established annually to  
26 recover only the amounts directly recovered from that utility during the  
27 preceding calendar year.

28 (ii) The surcharge mechanism shall include  
29 provisions to address any excessive or deficient recoveries during the  
30 preceding calendar year. The surcharge shall not include any interest or  
31 carrying charges.

32 (iii) Any surcharge must be approved by the  
33 Commission before it can be implemented.

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35 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
36 General Assembly of the State of Arkansas that the rates paid by customers of

1 public utilities may be affected in a manner that is burdensome to Arkansas  
2 utility consumers and harmful to economic development and that the Arkansas  
3 Public Service Commission needs to be immediately authorized to employ  
4 counsel and experts to protect the utility consumers or Arkansas. Therefore,  
5 an emergency is declared to exist and this act being immediately necessary  
6 for the public peace, health, and safety shall become effective on:

7 (1) The date of its approval by the Governor;

8 (2) If the bill is neither approved nor vetoed by the Governor,  
9 the expiration of the period of time during which the Governor may veto the  
10 bill; or

11 (3) If the bill is vetoed by the Governor and the veto is  
12 overridden, the date the last house overrides the veto.

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14 /s/ Wood  
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