

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1903

4  
5 By: Representative Cash  
6  
7

## For An Act To Be Entitled

9 AN ACT TO SET ENERGY EFFICIENCY PERFORMANCE  
10 STANDARDS FOR AN ELECTRIC PUBLIC UTILITY REGULATED  
11 BY THE ARKANSAS PUBLIC SERVICE COMMISSION; TO  
12 REQUIRE THE ELECTRIC PUBLIC UTILITY TO DEVELOP AN  
13 ENERGY EFFICIENCY PLAN; TO PROVIDE FOR MONITORING  
14 OF THE PLAN; TO ALLOW FOR THE RECOVERY OF COSTS;  
15 TO REQUIRE REVIEW BY THE COMMISSION; TO ALLOW THE  
16 COMMISSION TO AWARD INCENTIVES; AND FOR OTHER  
17 PURPOSES.

## Subtitle

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19  
20 THE ENERGY EFFICIENCY PERFORMANCE  
21 STANDARDS ACT OF 2009.  
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code Title 23, Chapter 3 is amended to add an  
27 additional subchapter to read as follows:

28 23-3-801. Title.

29 This subchapter shall be known and may be cited as the "Energy  
30 Efficiency Performance Standards Act of 2009".

31  
32 23-3-802. Definitions.

33 As used in this subchapter:

34 (1) "Cost effective" means the program meets the cost-  
35 effectiveness criteria established by the Arkansas Public Service Commission;

36 (2)(A) "Energy efficiency" means a decrease in the consumption



1 of electricity or natural gas achieved through a measure or program that  
 2 targets customer behavior, equipment, devices, or materials.

3 (B) "Energy efficiency" includes load management to the  
 4 extent that it reduces an electric utility's overall energy usage in this  
 5 state; and

6 (3) "Load management" means a measure or program that targets  
 7 equipment or devices to decrease peak electricity demand from a peak to an  
 8 off-peak period.

9  
 10 23-3-803. Energy efficiency performance standards.

11 (a) An electric utility shall use its best efforts through the  
 12 implementation of energy efficiency programs for its customers to meet the  
 13 following minimum energy efficiency performance standards:

14 (1) In the 2009-2010 biennium, incremental energy savings  
 15 equivalent to three-tenths of one percent (0.3%) of the electric utility's  
 16 annual weather-normalized retail electricity sales in kilowatt hours in 2008;

17 (2) In 2011, incremental energy savings equivalent to five-  
 18 tenths of one percent (0.5%) of the electric utility's total annual weather-  
 19 normalized retail electricity sales in kilowatt hours in 2009;

20 (3) In 2012, incremental energy savings equivalent to seventy-  
 21 five hundredths of one percent (0.75%) of the electric utility's total annual  
 22 weather-normalized retail electricity sales in kilowatt hours in 2011; and

23 (4) In 2013 and annually thereafter, incremental energy savings  
 24 equivalent to one percent (1.0%) of the electric utility's total annual  
 25 weather-normalized retail electricity sales in kilowatt hours in the  
 26 preceding year.

27 (b) A natural gas utility shall use its best efforts through the  
 28 implementation of energy efficiency programs for its customers to meet the  
 29 following minimum energy efficiency performance standards:

30 (1) In the 2009-2010 biennium, incremental energy savings in  
 31 equivalent to one-tenth of one percent (0.1%) of the natural gas utility's  
 32 total annual weather-normalized retail natural gas sales in therms in 2008;

33 (2) In 2011, incremental energy savings equivalent to twenty-  
 34 five hundredths of one percent(0.25%) of the natural gas utility's total  
 35 annual weather-normalized retail natural gas sales in therms in 2010;

36 (3) In 2012, incremental energy savings equivalent to five-

1 tenths of one percent (0.5%) of the natural gas utility's total annual  
 2 weather-normalized retail natural gas sales in therms in 2011; and

3 (4) In 2013 and annually thereafter, incremental energy savings  
 4 equivalent to seventy-five hundredths of one percent (0.75%) of the natural  
 5 gas utility's total annual weather-normalized retail natural gas sales in  
 6 therms in the preceding year.

7 (c)(1) Unless the commission has given its prior approval, a natural  
 8 gas utility or an electric utility shall not spend more than the following on  
 9 its energy efficiency programs:

10 (A) In 2010, seventy-five hundredths of one percent (0.75%)  
 11 of total utility sales revenues for 2008;

12 (B) In 2011, one percent (1.0%) of total utility sales  
 13 revenues for 2009;

14 (C) In 2012, one and five-tenths percent (1.5%) of total  
 15 utility sales revenues for 2010 and

16 (D) In 2013 and each year thereafter, two percent (2.0%) of  
 17 total utility sales revenues for the preceding year.

18 (2) As used in subdivision (c)(1) of this section, "total  
 19 utility sales revenues" includes electricity or natural gas commodity costs.

20  
 21 23-3-804. Energy efficiency plan.

22 (a) Within ninety (90) days after the effective date of this act, the  
 23 Arkansas Public Service Commission shall initiate a proceeding to require  
 24 each utility to develop and submit an energy efficiency plan to meet its  
 25 energy efficiency performance standards set under § 23-3-803.

26 (b)(1) Within one hundred eighty (180) days after the effective date of  
 27 this act, each utility shall file its energy efficiency plan with the  
 28 commission.

29 (2) Beginning September 1, 2010, and annually thereafter, each  
 30 utility shall file its energy efficiency plan with the commission.

31 (c) The energy efficiency plan shall include without limitation the  
 32 following:

33 (1) A set of energy efficiency programs that include offerings  
 34 for each customer class;

35 (2) The funding level for each energy efficiency program;

36 (3) A demonstration that the proposed energy efficiency programs

1 and funding are sufficient to achieve the utility's energy efficiency  
 2 performance standard;

3 (4) A demonstration that the utility's energy efficiency  
 4 programs will collectively be cost-effective;

5 (5)(A) An explanation of the utility's plan for the practical  
 6 and effective administration of the utility's proposed energy efficiency  
 7 programs.

8 (B) A utility's energy efficiency programs shall be  
 9 administered by a commission-approved entity that includes without  
 10 limitation:

11 (i) The utility;

12 (ii) A coordinator with other utility programs;

13 (iii) A state, county, or local agency; or

14 (iv) A nonprofit organization; and

15 (6) The process for retaining an independent expert to verify  
 16 the incremental energy savings from the utility's energy efficiency programs.

17 (d) An energy efficiency plan may include provision for the utility or  
 18 the administrator selected by the commission to facilitate third-party loans  
 19 to customers to finance an energy efficiency measure.

20 (e) The energy efficiency plan's proposed expenditures for energy  
 21 efficiency programs should be consistent with the proportional amounts that  
 22 are collected from each customer rate class unless good reason exists to do  
 23 otherwise.

24  
 25 23-3-805. Monitoring.

26 The Arkansas Public Service Commission shall monitor and verify utility  
 27 performance to ensure compliance with the requirements of this subchapter.

28  
 29 23-3-806. Cost recovery.

30 (a)(1) The Arkansas Public Service Commission shall allow a utility  
 31 that undertakes an approved energy efficiency program to recover its costs to  
 32 implement that energy efficiency program.

33 (2) However, those costs exceeding the overall funding levels in  
 34 the energy efficiency plan are not recoverable unless the commission approves  
 35 those costs as prudent under the circumstances that existed at the time of  
 36 the incurrence of those costs.

1           (b)(A) Unless the commission determines otherwise, costs for energy  
 2 efficiency programs shall be recovered through volumetric surcharges.

3           (B) Charges shall be applied to distribution customers  
 4 regardless of the source of their electricity or natural gas supply.

5           (2) If it finds it in the public interest, the commission may  
 6 authorize the utility to capitalize the costs of implementing approved energy  
 7 efficiency programs.

8  
 9           23-3-807. Energy efficiency plan review.

10          (a)(1) Within one hundred eighty (180) days of receiving an energy  
 11 efficiency plan from a utility, the Arkansas Public service Commission shall  
 12 approve the energy efficiency plan, conditionally approve the energy  
 13 efficiency plan, or reject the energy efficiency plan.

14          (2) If the commission rejects the energy efficiency plan or  
 15 conditionally approves the energy efficiency plan in terms that the utility  
 16 will not accept, the utility shall submit a revised energy efficiency plan  
 17 within thirty (30) days.

18          (b) The utility's obligations under § 23-3-803 are not affected by the  
 19 commission's determination under subsection (a) of this section.

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 21          23-3-808. Incentives.

22          (a) If a utility exceeds the applicable energy performance standards  
 23 under § 23-3-803, the Arkansas Public Service Commission may allow the  
 24 utility to receive a financial incentive for its performance as provided in  
 25 the commission's rules.

26          (b) A financial incentive approved under subsection (a) of this  
 27 section shall be:

28                 (1) Added to the total energy efficiency program costs to be  
 29 recovered by the utility under § 23-3-806; and

30                 (2) Included in the cost-effectiveness evaluation of the energy  
 31 efficiency programs.

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 33          23-3-809. Rules.

34          (a) The Arkansas Public Service Commission shall promulgate rules to  
 35 implement this subchapter.

36          (b) The rules shall include:

1           (1) A requirement that annually each utility shall include in  
2 its customers' bills a statement specifying the reduction in electricity or  
3 natural gas usage in this state attributable to this subchapter; and

4           (2) The procedure for reviewing and verifying the results of  
5 each utility's compliance with this subchapter.

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7           23-3-810. Reporting.

8           By September 30, 2011, and biennially afterwards, the Arkansas Public  
9 Service Commission shall provide a report to the Cochairs of the Legislative  
10 Council on the progress and results of the energy efficiency programs  
11 implemented under this subchapter.