

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  
4

As Engrossed: H3/17/09 H3/26/09

# A Bill

HOUSE BILL 1903

5 By: Representatives Cash, Blount, Breedlove, Carroll, Harrelson, Kidd, Moore, J. Roebuck, L. Smith,  
6 Wagner, B. Wilkins

7 By: Senator Bookout  
8  
9

## For An Act To Be Entitled

11 AN ACT TO SET ENERGY EFFICIENCY SAVINGS GOALS  
12 FOR AN ELECTRIC PUBLIC UTILITY AND A NATURAL  
13 GAS PUBLIC UTILITY REGULATED BY THE ARKANSAS  
14 PUBLIC SERVICE COMMISSION; TO REQUIRE THE  
15 ELECTRIC PUBLIC UTILITY AND THE NATURAL GAS  
16 PUBLIC UTILITY TO DEVELOP AN ENERGY EFFICIENCY  
17 PLAN; TO ALLOW FOR THE RECOVERY OF COSTS; TO  
18 REQUIRE REVIEW BY THE COMMISSION; TO ALLOW THE  
19 COMMISSION TO AWARD INCENTIVES; AND FOR OTHER  
20 PURPOSES.  
21

## Subtitle

22 THE ENERGY EFFICIENCY SAVINGS GOALS ACT  
23 OF 2009.  
24  
25  
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

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

31 23-3-801. Title.

32 This subchapter shall be known and may be cited as the "Energy  
33 Efficiency Savings Goals Act of 2009".  
34

35 23-3-802. Definitions.

36 As used in this subchapter:



1           (1) “Cost effective” means the program meets the cost-  
2 effectiveness criteria established by the Arkansas Public Service Commission;

3           (2)(A) “Energy efficiency” means a decrease in the consumption  
4 of electricity or natural gas achieved through a measure or program that  
5 targets customer behavior, equipment, devices, or materials.

6           (B) “Energy efficiency” includes load management to the  
7 extent that it reduces an electric utility’s overall energy usage in this  
8 state; and

9           (3) “Load management” means a measure or program that targets  
10 equipment or devices to decrease peak electricity demand from a peak to an  
11 off-peak period.

12  
13           23-3-803. Energy efficiency savings goals.

14           (a) An electric utility shall use its best efforts through the  
15 implementation of energy efficiency programs for its customers to meet by  
16 2013 an annual energy savings goal of at least one percent (1%) of the  
17 electric utility’s total annual sales in kilowatt hours based on its most  
18 recent three-year average of total kilowatt hours, as determined by the  
19 Arkansas Public Service Commission.

20           (b) A natural gas utility shall use its best efforts through the  
21 implementation of energy efficiency programs for its customers to meet by  
22 2013 an annual energy savings goal of at least seventy-five hundredths of one  
23 percent (0.75%) of the natural gas utility’s total annual sales in therms  
24 based on its most recent three-year average of total therm sales, as  
25 determined by the commission.

26           (c) During the period of 2010 through 2012, the commission may  
27 establish for an electric utility or a natural gas utility interim goals for  
28 energy savings that are attributable to energy efficiency programs  
29 implemented under this subchapter.

30  
31           23-3-804. Limitation on spending.

32           (a) Unless the Arkansas Public Service Commission has given its prior  
33 approval, a natural gas utility or an electric utility shall not spend on its  
34 energy efficiency programs an annual amount that exceeds two percent (2%) of  
35 its total utility sales revenues for the preceding year.

36           (b) As used in subsection (a) of this section, “total utility sales

1 revenues" includes electricity or natural gas commodity costs.

2  
3 23-3-805. Energy efficiency plan.

4 (a) Within ninety (90) days after the effective date of this act, the  
5 Arkansas Public Service Commission shall initiate a proceeding to require  
6 each utility to develop and submit an energy efficiency plan to meet its  
7 energy efficiency savings goal set under § 23-3-803.

8 (b)(1) Within one hundred eighty (180) days after the effective date of  
9 this act, each utility shall file its energy efficiency plan with the  
10 commission for its approval.

11 (2) Beginning September 1, 2010, and annually thereafter, each  
12 utility shall file its energy efficiency plan with the commission for its  
13 approval.

14 (c) The energy efficiency plan shall include without limitation the  
15 following:

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

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

19 (3) A demonstration that the proposed energy efficiency programs  
20 and funding are sufficient to achieve the utility's energy efficiency savings  
21 goal;

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

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

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

30 (i) The utility;

31 (ii) A coordinator with other utility programs;

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

33 (iv) A nonprofit organization; and

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

36 (d) An energy efficiency plan may include provision for the utility or

1 the administrator selected by the commission to facilitate third-party loans  
2 to customers to finance an energy efficiency measure.

3 (e) The energy efficiency plan's proposed expenditures for energy  
4 efficiency programs for each rate class shall be equal to the amounts that  
5 are collected from each customer rate class for the energy efficiency  
6 programs.

7  
8 23-3-806. Monitoring.

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

11  
12 23-3-807. Cost recovery.

13 (a) The Arkansas Public Service Commission shall allow a utility that  
14 undertakes an approved energy efficiency program to recover its costs to  
15 implement that energy efficiency program.

16 (b)(1)(A) The utility shall recover the costs of an approved  
17 energy efficiency program from its customers in a manner that is consistent  
18 with the electric utility's or the natural gas utility's most recent order  
19 for a general change or modification of rates and charges.

20 (B) The charge under subdivision (b)(1)(A) of this section  
21 shall be:

22 (i) Applied to all existing and future distribution  
23 customers; and

24 (ii) Based on that customer's current monthly  
25 billing determinants.

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

29  
30 23-3-808. Energy efficiency plan review.

31 (a)(1) Within one hundred eighty (180) days of receiving an energy  
32 efficiency plan from a utility, the Arkansas Public service Commission shall  
33 approve the energy efficiency plan, conditionally approve the energy  
34 efficiency plan, or reject the energy efficiency plan.

35 (2) If the commission rejects the energy efficiency plan or  
36 conditionally approves the energy efficiency plan in terms that the utility

1 will not accept, the utility shall submit a revised energy efficiency plan  
2 within thirty (30) days.

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

5  
6 23-3-809. Incentives.

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

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

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

15 (2) Included in the cost-effectiveness evaluation of the energy  
16 efficiency programs.

17  
18 23-3-810. Rules.

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

21 (b) The rules shall include the procedure for reviewing and verifying  
22 the results of each utility's compliance with this subchapter.

23  
24 23-3-811. Reporting.

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

29  
30 23-3-812. Applicability.

31 This subchapter does not apply to a municipal corporation or a  
32 consolidated municipal improvement district that owns or operates an electric  
33 utility system.

34  
35 /s/ Cash  
36