

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S1/26/21 S2/1/21

A Bill

SENATE BILL 23

5 By: Senator B. Johnson
6 By: Representative L. Fite
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE ELECTRIC COOPERATIVE
10 CORPORATION SELF-REGULATION ACT OF 2021; AND FOR
11 OTHER PURPOSES.
12
13

Subtitle

15 TO ESTABLISH THE ELECTRIC COOPERATIVE
16 CORPORATION SELF-REGULATION ACT OF 2021.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 23-18-201 is amended to read as follows:
22 23-18-201. Jurisdiction of commission generally.

23 ~~Electric~~ Except as specifically provided by law or if an electric
24 cooperative corporation has selected self-regulation as provided in § 23-18-
25 308, an electric cooperative corporations corporation generating,
26 manufacturing, purchasing, acquiring, transmitting, distributing, selling,
27 furnishing, and disposing of electric power and energy in this state ~~pursuant~~
28 ~~to~~ under the Electric Cooperative Corporation Act, § 23-18-301 et seq., ~~shall~~
29 ~~be~~ is subject to the general jurisdiction of the Arkansas Public Service
30 Commission ~~in the same manner and to the same extent as provided by law for~~
31 ~~the regulation, supervision, or control of public utilities except as~~
32 ~~provided in this subchapter.~~
33

34 SECTION 2. Arkansas Code § 23-18-308 is amended to read as follows:

35 23-18-308. Legislative findings and intent - Jurisdiction of
36 commission.



1 (a) The General Assembly finds that a corporation organized under this
2 subchapter:

3 (1) Is owned by the member-consumers that the corporation
4 serves; and

5 (2) Is regulated by the member-consumers through an elected and
6 governing board of directors.

7 (b) It is the intent of the General Assembly that it is in the public
8 interest to allow self-regulation for a corporation organized under this
9 subchapter.

10 (c) ~~All corporations organized under this subchapter~~ A corporation
11 ~~shall be in all respects~~ is subject to the jurisdiction, ~~supervision,~~
12 ~~regulation, and control~~ of the Arkansas Public Service Commission ~~to the same~~
13 ~~extent and in the same manner~~ as a public utility, except as otherwise
14 specifically provided by law or if a corporation has selected self-regulation
15 as described in subsection (d) of this section.

16 (d) *Excluding a generation and transmission cooperative as defined in*
17 *§ 23-4-1101, the right of self-regulation and exemption from the jurisdiction*
18 *of the commission may be selected by the members of a corporation if:*

19 (1) A vote on self-regulation and exemption occurred according
20 to the corporation's relevant governance documents;

21 (2) A majority of votes cast were in favor of self-regulation
22 and exemption; and

23 (3) The corporation notifies the commission, in writing, of the
24 results of the membership vote of the corporation within sixty (60) days of
25 the declaration of the results.

26 (e) A corporation that becomes self-regulated under this subchapter
27 shall:

28 (1) Set its own rates, terms, and conditions for service in a
29 manner that reasonably approximates the costs of providing service to the
30 respective classes of service of the corporation; and

31 (2) Ensure the rates, terms, and conditions for service of the
32 corporation are available for access on the website of the corporation or
33 other member-accessible location.

34 (f)(1) A corporation that becomes self-regulated under this subchapter
35 may resubmit to the jurisdiction of the commission if:

36 (A) The membership of a corporation requests a return to

1 the jurisdiction of the commission as follows:

2 (i) The commission receives a petition from at least
3 ten percent (10%) of the corporation's member-consumers, as defined in § 23-
4 4-901, requesting that the corporation return to the jurisdiction of the
5 commission and following the same form and procedures as described in § 23-4-
6 904; and

7 (ii) The commission orders the corporation to
8 conduct a membership vote regarding returning to the jurisdiction of the
9 commission using the same procedure described in subsection (d) of this
10 section; or

11 (B) The corporation's board of directors holds a
12 membership vote on the return to the jurisdiction of the commission using the
13 same procedure described in subsection (d) of this section.

14 (2) After following the procedure in subdivision (f)(1)(A) or
15 subdivision (f)(1)(B) of this section, if a majority of the votes cast are in
16 favor of returning to the jurisdiction of the commission, then the change
17 shall occur no earlier than twelve (12) months from the date the corporation
18 first provides notice to the commission that the corporation would be self-
19 regulated under subdivision (d)(3) of this section.

20 (g) The commission shall retain jurisdiction over a corporation that
21 becomes self-regulated under this subchapter for:

22 (1) Areas of service established in § 23-18-101;

23 (2) Siting of transmission facilities subject to a requirement
24 for a certificate of public convenience and necessity under §§ 23-3-201 – 23-
25 3-205 or under the Utility Facility Environmental and Economic Protection
26 Act, § 23-18-501 et seq., if the property for the facility will be acquired
27 by the corporation using the power of eminent domain;

28 (3) Proceedings brought by a member or consumer of the
29 corporation regarding quality of service;

30 (4) Pole attachments as described in § 23-4-1001 et seq.; and

31 (5) Ad valorem tax assessments as described in § 26-26-1601 et
32 seq.

33 (h) A self-regulated corporation shall not use its status as a
34 monopoly electric service provider to make the provision of electric service
35 conditional upon the nonelectric service offerings of the corporation.

36 (i) If another provision of Arkansas law conflicts with this

1 subchapter, this subchapter shall control.

2
3 SECTION 3. Arkansas Code § 23-18-331 is amended to read as follows:

4 23-18-331. Service in incorporated areas.

5 (a)(1) The inclusion by incorporation, annexation, or otherwise of any
6 portion of a rural area assigned to ~~corporations~~ a corporation within the
7 limits of an incorporated or unincorporated city, town, or village,
8 regardless of its population, shall not ~~in any respect~~ impair or affect the
9 rights of ~~the corporations under their certificates of convenience and~~
10 ~~necessity~~ a corporation to continue and extend electric service in the
11 included areas.

12 (2) Notwithstanding any other provisions of law, ~~the~~
13 ~~corporations shall be~~ a corporation is entitled to continue and extend
14 service ~~therein~~ under the same terms and conditions as those contained in the
15 franchise or indeterminate permit of any other supplier of electric service
16 in the city, town, or village the same as though it were a party to the
17 franchise or indeterminate permit.

18 (b)~~(1)~~ ~~A corporation which serves an area within the limits of any~~
19 ~~municipality under the terms of this subchapter shall as to that area be~~
20 ~~subject in all respects to the jurisdiction of the Arkansas Public Service~~
21 ~~Commission to the same extent and in the same manner as it is subject to such~~
22 ~~jurisdiction in areas outside the limits of municipalities.~~

23 ~~(2)~~ ~~Any such~~ A city, town, or village shall have the same
24 authority to impose taxes, charges, or fees in respect to the business of a
25 corporation conducted within the corporate limits of ~~such~~ the city, town, or
26 village as it has in respect to business conducted by other suppliers of
27 electric service.

28 (c) ~~Nothing in this section shall in any manner~~ This section does not
29 restrict or impair the right of ~~any~~ a municipality to acquire, construct,
30 expand, maintain, or operate any electric generation, transmission, or
31 distribution facilities within the corporate limits of the city, town, or
32 village in Arkansas as ~~such~~ the limits may of the city, town, or village now
33 exist or as ~~such~~ the limits of the city, town, or village may exist upon the
34 extension or expansion of the city limits of the city, town, or village.

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36 /s/B. Johnson