

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.

INTERIM STUDY PROPOSAL 2009-026

State of Arkansas

As Engrossed: H3/18/09

87th General Assembly

A Bill

Regular Session, 2009

HOUSE BILL 1278

By: Representative Ragland

Filed with: House Interim Committee on Insurance and Commerce
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AUTHORIZE THE ARKANSAS PUBLIC SERVICE
COMMISSION TO CONSIDER, DEVELOP, SOLICIT,
APPROVE, IMPLEMENT, AND MONITOR PROGRAMS AND
MEASURES BY PUBLIC UTILITIES THAT ENCOURAGE AND
CONSERVE ENERGY; AND FOR OTHER PURPOSES.

Subtitle

THE ENERGY CONSERVATION ACT OF 2009.

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

SECTION 1. The purpose of this act is to authorize the Arkansas Public Service Commission to consider, develop, solicit, approve, implement, and monitor programs and measures by public utilities that *energy efficiency* and *conserve energy*.

SECTION 2. *Arkansas Code Title 23, Chapter 3, Subchapter 4 is amended to read as follows:*

23-3-401. Title.

This subchapter shall be known and may be cited as the ~~"Energy Conservation Endorsement Act of 1977"~~ "Energy Conservation Act of 2009".

23-3-402. Legislative findings.

~~The General Assembly finds that the United States is confronted with a~~



~~severe and very real energy crisis. Simply stated, the demand for fuels has outstripped the available supplies. The President of the United States has established energy conservation as a high-priority national goal and has called on all Americans to participate in and perhaps make sacrifices toward attaining that goal. The General Assembly recognizes that enormous amounts of energy are wasted by consumers of all classes and economic levels due to inadequate insulation of buildings and other inefficiencies in the use of energy. The overriding public interest in the conservation of natural gas and oil, as well as the use of alternative forms of energy, is indisputable.~~

(a) The General Assembly finds that:

(1) The United States and the State of Arkansas confront a severe and worsening energy crisis;

(2) The United States is currently dependent on energy resources that are:

(A) Expensive;

(B) Subject to volatile pricing that disrupts the national economy; and

(C) More difficult to acquire as world energy demands increase significantly;

(3) Longstanding dependence upon foreign energy resources presents a real threat to this nation's economic and energy security; and

(4) The President of the United States has established as a high-priority national goal a dramatic increase in conservation, energy efficiency, demand-response measures, renewable resources, and improvements to the nation's electric distribution and transmission systems.

(b) The General Assembly recognizes that:

(1) The enhanced development of these sustainable energy resources is in the public interest;

(2) The state's public utility regulatory and ratemaking process should be strengthened to:

(A) Maximize technology and energy resources; and

(B) Contribute to the reduction of economic and security concerns;

(3) Enormous amounts of energy are wasted by consumers of all classes and economic levels due to inadequate insulation of buildings and inefficiencies in the use of energy; and

1 (4) The overriding public interest in energy efficiency and
2 conservation of energy, as well as in the increased use of alternative forms
3 of energy, is indisputable.

4
5 23-3-403. Energy conservation programs and measures defined.

6 As used in this subchapter, ~~unless the context otherwise requires,~~
7 “energy conservation programs and measures” may include, ~~but shall not be~~
8 limited to without limitation:

9 ~~(1) Programs of residential, commercial, or industrial~~
10 ~~insulation, including measures to facilitate the financing of such~~
11 ~~insulation;~~

12 ~~(2) Programs which result in the improvement of load factors,~~
13 ~~contribute to reductions in peak power demands, and promote efficient load~~
14 ~~management, including the adoption of interruptible service equipment and~~
15 ~~alternative or additional metering equipment designed to implement new rate~~
16 ~~structures; and~~

17 ~~(3) Programs which encourage the use of renewable energy~~
18 ~~technologies or sources, including solar energy, wind power, geothermal~~
19 ~~energy, biomass conversion, or the energy available from municipal,~~
20 ~~industrial, silvicultural, or agricultural wastes.~~

21 (1)(A) An energy efficiency program or measure that reduces the
22 rate at which energy is used by equipment or a process while maintaining or
23 improving at a lower cost the customer’s existing level of comfort and end-
24 use functionality.

25 (B) A reduction in the rate of energy used may be achieved
26 by:

27 (i) Substituting more advanced technology; or

28 (ii) Reorganizing the process to reduce waste heat,
29 waste cooling, or energy.

30 (C) Energy efficiency includes:

31 (i) A measure taken on the electric public utility’s
32 side of the meter or a natural gas public utility’s side of the meter to
33 improve efficiency in generation, transmission, and distribution operations,
34 infrastructure, and the business practices of the electric public utility or
35 the natural gas public utility; and

36 (ii) A program of residential, commercial, or

1 industrial insulation, including measures to facilitate the financing of
2 insulation through the program;

3 (2) Either of the following:

4 (A) A demand response program or measure that results in a
5 change in the energy use by an end-use customer from his or her normal
6 consumption pattern in response to:

7 (i) A change in the price of energy over time; or

8 (ii) An incentive payment designed to induce lower
9 electric power and natural gas demand and energy use during times:

10 (a) Of high wholesale market prices;

11 (b) When system reliability is jeopardized; or

12 (c) When reductions in peak electric load or
13 energy usage will lower regulated emissions or improve environmental quality;
14 or

15 (B) A program that:

16 (i) Improves load factors;

17 (ii) Contributes to reductions in peak power demand;

18 or

19 (iii) Promotes efficient load management, including
20 without limitation the adoption of interruptible service equipment and
21 alternative or additional metering equipment designed to implement new rate
22 structures;

23 (3) An application of an advanced technology or system to the
24 delivery system of an electric public utility or a natural gas public utility
25 that enables benefits in the areas of:

26 (A) Energy demand and consumption;

27 (B) Reliability;

28 (C) Improved customer service and information;

29 (D) Increased energy efficiency and demand response;

30 (E) Improvement in delivery efficiency; and

31 (F) Voltage control; and

32 (4) Renewable resources, including without limitation energy
33 that is:

34 (A) Generated at a facility from solar, wind, geothermal,
35 ocean energy, biomass, landfill gas, or hydroelectric power; and

36 (B) Available from a municipal, an industrial, a

1 silvicultural, or an agricultural waste.

2
3 23-3-404. Conservation a proper utility function.

4 It ~~shall be considered~~ is a proper and essential function of ~~public~~
5 ~~utilities~~ an electric public utility or a natural gas public utility
6 regulated by the Arkansas Public Service Commission to engage in energy
7 conservation programs, projects, and practices ~~which~~ that conserve, as well
8 as ~~distribute, electrical energy and supplies of natural gas, oil, and other~~
9 ~~fuels.~~

10
11 23-3-405. Authority of Arkansas Public Service Commission – Rates and
12 charges.

13 (a)(1) The Arkansas Public Service Commission is authorized to
14 propose, develop, solicit, approve, require, implement, and monitor programs
15 and measures by utility companies which an electric public utility or a
16 natural gas public utility that cause the companies the electric public
17 utility or the natural gas public utility to incur costs of service and
18 ~~investments which~~ or costs of investment that encourage energy efficiency and
19 ~~conserve, as well as distribute, electrical energy and existing supplies of~~
20 ~~natural gas, oil, and other fuels~~ energy.

21 (2)(A) If the commission determines after proper notice and
22 hearing that ~~After proper notice and hearings, the~~ energy conservation
23 ~~programs and measures may be approved and ordered into effect by the~~
24 ~~commission if it determines they will be beneficial to the ratepayers of such~~
25 ~~public utilities~~ an electric public utility or a natural gas public utility
26 ~~and to the utilities themselves~~ the public utility, the commission may
27 approve the energy conservation programs and measures and order their
28 implementation.

29 (3) ~~In such instances, the commission shall declare that the~~
30 ~~cost of such conservation measures is a proper cost of providing utility~~
31 ~~service. At the time any such programs or measures are approved and ordered~~
32 ~~into effect, the commission shall also order that the affected public utility~~
33 ~~company be allowed to increase its rates or charges as necessary to recover~~
34 ~~any costs incurred by the public utility company as a result of its engaging~~
35 ~~in any such program or measure.~~

36 (B) If the commission orders the implementation of energy

1 conservation programs and measures under subdivision (a)(1) of this section,
2 the commission shall:

3 (i) Declare the cost of the energy conservation
4 programs and measures to be a proper cost of providing a public utility
5 service; and

6 (ii) At the time the energy conservation programs
7 and measures are approved and ordered into effect, order the affected
8 electric public utility or natural gas public utility to increase its rates
9 or charges as necessary to recover its costs of engaging in energy
10 conservation programs and measures.

11 (b) ~~Nothing in this~~ This subchapter ~~shall be construed as limiting or~~
12 ~~cutting down~~ does not limit the authority of the commission to order,
13 require, promote, or engage in other ~~energy conserving~~ actions or measures
14 for the conservation of energy.

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16 /s/ Ragland
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