

1 INTERIM STUDY PROPOSAL 2011-081

2 State of Arkansas
3 88th General Assembly
4 Regular Session, 2011

As Engrossed: S3/23/11
A Bill

SENATE BILL 721

5
6 By: Senators Madison, *D. Johnson, D. Wyatt, S. Flowers, G. Jeffress, J. Jeffress*
7 *By: Representative Webb*

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

10 **For An Act To Be Entitled**

11 AN ACT TO STIMULATE ECONOMIC DEVELOPMENT AND JOB
12 CREATION IN THE ENERGY ECONOMY AND PROVIDE FOR THE
13 RECOVERY OF THE ELECTRIC UTILITY'S COSTS; AND FOR
14 OTHER PURPOSES.

15
16
17 **Subtitle**

18 THE CLEAN ENERGY ACT OF 2011.

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

22
23 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an
24 additional subchapter to read as follows:

25 Subchapter 10 -- Arkansas Clean Energy Act
26 23-18-1001. Title.

27 This subchapter shall be known and may be cited as the "Arkansas Clean
28 Energy Act".

29
30 23-18-1002. Legislative findings and declaration of purpose.

31 (a) The General Assembly finds that it is in the public interest to:

32 (1) Promote and encourage the wise development and use of this
33 state's renewable energy resources;

34 (2) Foster investment in emerging renewable energy technologies
35 using the renewable energy resources found within this state; and

1 (3) Require electric utilities to include renewable energy
2 resources as an integral part of their energy portfolios.

3 (b) The purpose of this subchapter is to ensure that an electric
4 utility will include renewable energy resources as an integral part
5 of its energy resource plan.

6
7 23-18-1003. Definitions.

8 As used in this subchapter:

9 (1) "Commission" means the Arkansas Public Service Commission or
10 the appropriate regulatory governing body for a public electric utility that
11 is not regulated by the Arkansas Public Service Commission;

12 (2) "Dispatch-ability" means an electric utility's ability to
13 utilize renewable energy generation throughout the electric grid;

14 (3) "Electric utility" means a publicly owned or an investor-
15 owned utility, an electric cooperative, or a municipal utility that is
16 engaged in the business of supplying electricity to an end user in this
17 state;

18 (4) "Feed-in tariff" means a tariff approved by the commission
19 that governs the purchase of energy from a renewable electric generation
20 facility by an electric utility;

21 (5) "Renewable electric generation facility" means a facility
22 for the generation of electric energy that:

23 (A) Is located within this state;

24 (B) Is fueled by a renewable energy resource; and

25 (C) Has an effective capacity of not more than five
26 megawatts (5 MW); and

27 (6) "Renewable energy resource" means a solar, wind, water,
28 geothermal, or biomass resource located within this state.

29
30 23-18-1004. Requirement to purchase renewable energy.

31 (a) An electric utility shall file with the commission for a feed-in
32 tariff that:

33 (1) Requires the electric utility to purchase the renewable
34 energy produced by a renewable electric generation facility at the price and
35 terms established by the commission for a period not to exceed twenty (20)
36 years; and

1 (2) Contains those terms and conditions that are necessary to:

2 (A) Encourage the development and use of renewable energy
3 resources to generate electricity;

4 (B) Protect the integrity and reliability of the electric
5 utility's electric system; and

6 (C) Protect the health, safety, and welfare of the public.

7 (b) After notice and hearing, the commission shall approve the feed-in
8 tariff if:

9 (1) It is consistent with the Federal Power Act, 16 U.S.C. 12,
10 as in effect on January 1, 2011;

11 (2) It finds the feed-in tariff is in the public interest; and

12 (3) The feed-in tariff is differentiated by:

13 (A) Renewable electric generation technology, including
14 system, public policy, and environmental attributes;

15 (B) Size and capacity of the renewable electric generation
16 facility; or

17 (C) Dispatch-ability of the renewable electric generation
18 facility; and

19 (4) Included within the feed-in tariff is a consideration of
20 the:

21 (A) Location of a renewable electric generation facility
22 in excess of five hundred kilowatts (500 kW); or

23 (B) Cost of a necessary interconnection facility upgrade
24 to connect a renewable electric generation facility in excess of five hundred
25 kilowatts (500 kW).

26 (c)(1)(A) After the commission approves the feed-in tariff, the
27 electric utility shall make the feed-in tariff available on a first-come,
28 first-served basis to renewable electric generation facilities that are
29 located within the allocated service territory of the electric utility.

30 (B) Unless the commission for good cause modifies
31 the requirement for an electric utility under this subdivision (c)(1), the
32 electric utility shall offer to purchase under the feed-in tariff at least
33 twenty percent (20%) of its electricity supply requirement under subdivision
34 (c)(1)(A) of this section from a residential or commercial renewable electric
35 generation facility.

1 (2) If the renewable electric generation facility also consumes
2 any of the energy generated, the renewable electric generation facility must
3 first complete an energy audit performed by a certified third party to insure
4 that prudent energy efficiency measures are implemented prior to making
5 application for a contract for a renewable energy feed.

6 (3) An electric utility shall offer service or a contract under
7 the feed-in tariff until the electric utility meets its proportionate share
8 of a combined cumulatively rated generation capacity of the renewable
9 electric generation facilities in this state equal to two hundred megawatts
10 (200 MW).

11 (4) The determination of each electric utility's proportionate
12 share of the requirement under subdivision (c)(2) of this section shall be
13 based on a comparison of the electric utility's peak demand to the total
14 statewide peak demand of all the electric utilities in the state.

15 (d) The electric utility shall retain any renewable energy credit that
16 derives from a feed-in tariff.

17
18 23-18-1005. Cost of necessary interconnection facilities.

19 The cost of an addition or a modification of an electric utility's grid
20 that is made at or beyond the point where the renewable electric generation
21 facility interconnects with the electric utility's grid for the sole purpose
22 of receiving electricity from a renewable electric generation facility is the
23 exclusive responsibility of the renewable electric generation facility unless
24 the commission requires the electric utility to bear that cost or a portion
25 of that cost under § 23-18-1006.

26
27 23-18-1006. Cost recovery by an electric utility.

28 The commission shall permit an electric utility to:

29 (1) Recover the cost of electric energy purchased under a feed-
30 in tariff that exceeds the electric utility's avoided cost of generating the
31 electric energy purchased from the renewable electric generation facility;
32 and

33 (2) Recover and earn a return on the reasonable and prudent
34 investment cost incurred by the electric utility for the construction of an
35 electric system upgrade that is reasonably necessary to receive the electric
36 energy purchased under the feed-in tariff.

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/s/Madison

Referred by the Arkansas Senate

Prepared by: MMC/VJF