

# A Bill

## For An Act To Be Entitled

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

### Subtitle

THE CLEAN ENERGY ACT OF 2013

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

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

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

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

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

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

- (1) Promote and encourage the wise development and use of this state's renewable energy resources;
- (2) Foster investment in emerging renewable energy technologies using the renewable energy resources found within this state; and
- (3) Require electric utilities to include renewable energy resources as an integral part of their energy portfolios.

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

23-18-1003. Definitions as used in this subchapter:

- (1) "Commission" means the Arkansas Public Service Commission or the appropriate regulatory governing body for a public electric utility that is not regulated by the Arkansas Public Service Commission;
- (2) "Dispatch-ability" means an electric utility's ability to utilize renewable energy generation throughout the electric grid;

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

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

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

(A) Is located within this state;

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

(C) Has an effective capacity of not more than twenty megawatts (20 MW); and

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

#### 23-18-1004. Requirement to purchase renewable energy.

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

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

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

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

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

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

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

(1) It is consistent with the Federal Power Act, 16 U.S.C. 12, as in effect on January 1, 2013;

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

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

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

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

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

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

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

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

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

(B) Unless the commission for good cause modifies the requirement for an electric utility under this subdivision (c)(1), the electric utility shall offer to purchase under the feed-in tariff at least twenty percent (20%) of its proportionate share of electricity supply requirement under subdivision (c)(3) of this section from a

residential or commercial renewable electric generation facility.

(2) If the renewable electric generation facility is located on a home or business and also consumes energy, the residential or commercial structure must meet the Arkansas Energy Code in effect at the time of application for a feed in contract.

**(3) An electric utility shall offer service or a contract under the feed-in tariff until the electric utility meets its proportionate share of a combined cumulatively rated generation capacity of the renewable electric generation facilities in this state equal to 600 hundred megawatts (600 MW).**

(4) The determination of each electric utility's **proportionate share** of the requirement under subdivision **(c)(3)** of this section shall be based on a comparison of the electric utility's peak demand to the total statewide peak demand of all the electric utilities in the state, with the **exception** that;

(A) An electric utility may meet up to fifty percent (50%) of the utility's proportionate share of the requirement under subdivision **(c) (3)** of this section by **installing, owning and operating** a renewable energy facility(s).

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

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

The cost of an addition or a modification of an electric utility's grid that is made at or beyond the point where the renewable electric generation facility interconnects with the electric utility's grid for the sole purpose of receiving electricity from a renewable electric generation facility is the exclusive responsibility of the renewable electric generation facility, unless the commission requires the electric utility to bear that cost or a portion of that cost under § 23-18-1006. Metering upgrades as may be necessary are the responsibility of the utility and do not constitute an additional cost or modification of an electric utility's grid.

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

The commission shall permit an electric utility to:

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

(2) Recover the cost of electric energy produced from a renewable energy facility(s) owned and operated by the electric utility that;

(A) is comparable to costs recovered under a feed-in tariff for the electric energy purchased by the utility from a renewable energy facility not owned and operated by the utility.

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

(4) Recover and earn a return on the reasonable and prudent costs incurred by the utility to administer and manage feed-in tariff contracts.