

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 4/2/87

HOUSE BILL 1830

By: Representative Bryan

"AN ACT TO PROVIDE THAT RURAL ELECTRIC DISTRIBUTION COOPERATIVES ARE NOT SUBJECT TO THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION EXCEPT UNDER CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES."

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

SECTION 1. (a) "Board" means the board of directors of a rural electric distribution cooperative.

(b) "Commission" means the Arkansas Public Service Commission.

(c) "Co-op" means a rural electric distribution cooperative formed under Act 342 of 1937, as amended, and which sells electricity only at retail.

(d) "Member-consumers" means the customers of a rural electric distribution cooperative.

SECTION 2. A co-op, as defined above, shall not be subject to rate case procedures and hearings and other requirements of Ark. Stat. Ann.

§73-217 and Commission regulations implementary thereof (hereafter referred to as "rate case procedures") by the Commission unless:

(a) the co-op elects, by action of its Board of Directors to be subject to rate case procedures by the Commission;

(b) a proposed change in the co-op's rates and charges exceeds ten percent (10%) of total gross revenues;

(c) ten percent (10%) of the co-op's member-consumers petition the Commission to apply rate case procedures;

(d) or as otherwise provided in this Act.

SECTION 3. Each co-op not subject to rate case procedures at least ninety (90) days before the effective date of any proposed rate change,

shall notify the Commission and each of its member-consumers of the proposed rate change. Notice to the Commission shall include a verified statement showing the then total number of member-consumers of the co-op. Notice by the co-op to its member-consumers shall:

- (a) be in a form prescribed by the Commission;
- (b) be by regular mail and may be included in regular member-consumer billings or in regularly published co-op newsletters provided to its member-consumers; and
- (c) include a schedule of the proposed rate change, the effective date of the proposed rate change and the procedure necessary for the member-consumers to petition the Commission to apply rate case procedures.

SECTION 4. If, by the effective date of the proposed change in rates and charges, the Commission has received petitions from fewer than fifteen percent (15%) of the member-consumers requesting that the Commission apply rate case procedures, the Commission shall immediately certify such fact to the co-op and the proposed rates and charges shall become effective as published in the notice to the member-consumers. Rates and charges so established shall be in effect for not less than one year, subject to the procedure provided for in Section 5 of this Act. If, on or before the effective date of the proposed change in rates and charges, the Commission has received petitions from ten percent (10%) of the member-consumers, the Commission shall notify the co-op that it will apply rate case procedures.

SECTION 5. In addition to the procedure for petition prior to any proposed change in rates and charges pursuant to Sections 3 and 4 of this Act, the member-consumers of a co-op may at any time petition the Commission to declare the co-op subject to rate case procedures. If the Commission determines that at least fifty-one percent (51%) of the member-consumers of a co-op have properly petitioned that the co-op be subject to rate case procedures, the Commission shall certify such fact to the co-op and thereafter the co-op shall be subject to rate case procedures by the Commission until at least fifty-one percent (51%) of the member-consumers of the co-op properly petition, in the manner prescribed in Section 9 below, that the co-op shall no longer be subject to such rate case procedures by the Commission.

SECTION 6. Sections 2 through 5 of this Act apply only to rates and charges and shall have no effect on the Commission's jurisdiction over a co-op as otherwise provided by law.

SECTION 7. A co-op when determining how rates and charges, established under Section 3 of this Act, are to be allocated among different rate classes, shall endeavor to apportion such rates and charges in a manner which reflects, as closely as practicable, the costs of providing service to each class.

SECTION 8. The Commission shall have the authority to investigate and determine the reasonableness of the change in rates and charges of each co-op changing its rates and charges pursuant to this Act, within one year of the time of such change in rates and charges. If the Commission preliminarily determines that there is substantial evidence indicating that such rates and charges are unreasonable, the Commission shall have the authority to apply rate case procedures and after hearing thereon shall have the authority to modify all or any portion of the changes found to be unreasonable. If following such hearing the Commission orders a change in the co-op's rates and charges, the co-op shall not effect a subsequent change in rates and charges pursuant to this Act for a period of twelve months from the date of said Commission Order.

SECTION 9. Petitions provided for in this Act shall be prepared as follows:

(a) Form. The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Arkansas Public Service Commission", (2) the name of the co-op seeking a change in rates and charges; and (3) the relief sought.

(b) Body. The body of the petition shall consist of three numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts. The allegations of facts shall be stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is based. The allegations will be stated in numbered subparagraphs as necessary for clarity.

(2) Relief Sought. The petition shall contain a brief statement

of the amount of the change in rates and charges that is objected to or other relief sought.

(3) Petitioners. The petition shall contain the name, address, telephone number and signature of each member-consumer. Only the member-consumer in whose name the electric service is listed shall be counted as a petitioner. Every signature must be dated and shall have been affixed to the petition within ninety (90) days preceding its filing with the Commission.

(c) A petition substantially in compliance with the form set forth herein shall not be deemed invalid due to minor errors in its form.

SECTION 10. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ L. L. Bryan

