

1 **State of Arkansas**

2 **78th General Assembly**

3 **Regular Session, 1991**

4 **By: Representatives Hunton and Steele**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-1-101 TO REDEFINE THE
9 TERM 'PUBLIC UTILITY' FOR PURPOSES OF PUBLIC SERVICE
10 COMMISSION JURISDICTION; AND FOR OTHER PURPOSES."

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

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14 SECTION 1. Arkansas Code 23-1-101(4)(A) is hereby amended to read as
15 follows:

16 "(4)(A) 'Public utility' includes persons, corporations, and publicly
17 owned water systems, or their lessees, trustees, and receivers, owning or
18 operating in this state equipment or facilities for:

19 (i) Producing, generating, transmitting, delivering, or furnishing gas,
20 electricity, steam, or another agent for the production of light, heat, or
21 power to, or for, the public for compensation;

22 (ii) Developing, treating, pumping, storing, transmitting,
23 distributing, or furnishing water to or for the public for compensation.

24 However, the term 'public utility' shall not include water facilities and
25 equipment of cities and towns other than those cities and town which sell
26 water outside their corporate boundaries. Furthermore, in those instances
27 where a city or town sells water outside its corporate boundaries, if all
28 entities involved agree that the Public Service Commission should not have
29 jurisdiction over the city or town, in that instance, the city or town will
30 not be deemed a public utility for purposes of this subdivision. Further, the
31 term 'public utility' shall not include any entity described by this
32 subdivision which meets any of the following criteria:

33 (a) All property owners' associations whose facilities are enjoyed only
34 by members of that association or residents of the community governed by that
35 association; or

1 (b) All entities whose annual operating water revenues do not exceed
2 four million five hundred thousand dollars (\$4,500,000). However, the term
3 'public utility' shall include any water company which petitions, or a
4 majority of whose metered customers petition, the Arkansas Public Service
5 Commission to come under the commission's jurisdiction, provided that the
6 water company must have had combined annual operating revenues in excess of
7 four hundred thousand dollars (\$400,000) for the three (3) fiscal years
8 immediately preceding the date of filing the petition; or

9 (c) All improvements districts including, but not limited to, regional
10 water distribution districts and water improvement districts.

11 (iii) Conveying or transmitting messages or communications by telephone
12 or telegraph where such service is offered to the public for compensation;

13 (iv) Transporting persons by street, suburban, or interurban railway
14 for the public for compensation;

15 (v) Transporting persons by motor vehicles if the vehicles are operated
16 under a franchise granted by a municipality and in conjunction with, or as a
17 part of, a street, suburban, or interurban railway, or in lieu of either
18 thereof, for the public for compensation;

19 (vi) Maintaining a sewage collection system or a sewage treatment
20 plant, intercepting sewers, outfall sewers, force mains, pumping stations,
21 ejector stations, and other appurtenances necessary or useful for the
22 collection or treatment, purification, and disposal of the liquid and solid
23 waste, sewage, night soil, and industrial waste. However, nothing in this
24 subdivision shall be construed to include sewerage facilities and equipment of
25 cities and towns in the definition of public utility. The term 'public
26 utility' shall not include any entity described by this subdivision which
27 meets any of the following criteria:

28 (a) All property owners' associations whose facilities are enjoyed only
29 by members of that association or residents of the community governed by that
30 association; or

31 (b) All entities whose annual operating revenues would cause them to be
32 classified as Class C or lower sewer companies pursuant to the uniform system
33 of accounts adopted by the Arkansas Public Service Commission; or

34 (c) All improvement districts."
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1 SECTION 2. All provisions of this Act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 3. If any provision of this Act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the Act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 Act are declared to be severable.

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11 SECTION 4. All laws and parts of laws in conflict with this Act are
12 hereby repealed.

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