

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Everett

A Bill

SENATE BILL 826

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 23-3-119
9 CONCERNING FILING COMPLAINTS WITH THE ARKANSAS PUBLIC
10 SERVICE COMMISSION; AND FOR OTHER PURPOSES."

Subtitle

13 "TO AMEND A.C.A. 23-3-119 CONCERNING
14 FILING COMPLAINTS WITH THE ARKANSAS
15 PUBLIC SERVICE COMMISSION"

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

19 SECTION 1. Arkansas Code Annotated § 23-3-119 is amended to read as
20 follows:

21 "23-3-119. Complaints.

22 (a)(1) Any chamber of commerce or board of trade, mercantile,
23 agricultural, or manufacturing association, any public utility, any
24 municipality, any customer of a public utility, any person unlawfully treated
25 by a public utility, the Attorney General, or any public utility unlawfully
26 treated by a customer, may complain to the commission in writing. The
27 complaint shall set forth any act or thing done or omitted to be done by any
28 public utility or customer in violation, or claimed violation, of any order,
29 law, or regulation which the commission has jurisdiction to administer.

30 (2) Any consumer or prospective consumer of any utility service
31 or the Attorney General may complain to the commission with respect to the
32 service, furnishing of service, or any discrimination with respect to any
33 service or rates.

34 (b) Every complainant shall, before filing a complaint, make a good
35 faith effort to informally resolve with the respondent the situation

1 complained of. The complainant shall allege and describe, in his complaint,
2 his efforts to achieve an informal resolution, including all informal
3 resolution procedures which may be prescribed by commission rule or by
4 approved tariffs.

5 (c) On the filing of the complaint, the commission shall cause a copy
6 thereof to be served upon the respondent.

7 (d) The commission shall then have the authority, upon timely notice,
8 to conduct investigations and public hearings, to mandate monetary refunds
9 and billing credits, or to order appropriate prospective relief as authorized
10 or required by law, rule, regulation, or order. The jurisdiction of the
11 commission in such disputes is primary and shall be exhausted before a court
12 of law or equity may assume jurisdiction. However, the commission shall not
13 have the authority to order payment of damages or to adjudicate disputes in
14 which the right asserted is a private right found in the common law of
15 contracts, torts, or property.

16 (e)(1) A utility may collect an award under this section by charging
17 the complainant on his regular utility bill. Failure to pay shall be grounds
18 for termination of service.

19 (2) The commission may order a utility to pay an award under
20 this section in the form of one (1) or more billing credits. In the case of
21 a former customer complainant, the commission may require a cash payment.

22 (f)(1) It is the specific intent of the General Assembly in enacting
23 the 1985 amendment to this section to vest in the Arkansas Public Service
24 Commission the authority to adjudicate individual disputes between consumers
25 or the Attorney General on behalf of consumers or a group of consumers and
26 the public utilities which serve them when those disputes involve public
27 rights which the commission is charged by law to administer.

28 (2) Public rights which the commission may adjudicate are those
29 arising from the public utility statutes enacted by the General Assembly and
30 the lawful rules, regulations, and orders entered by the commission in the
31 execution of the statutes. The commission's jurisdiction to adjudicate
32 public rights does not and cannot, however, extend to disputes in which the
33 right asserted is a private right found in the common law of contracts,
34 torts, or property.

35 (3) The commission's quasi-judicial jurisdiction to adjudicate

1 public rights and claims in individual cases or cases filed by the Attorney
2 General is in addition to the commission's traditional legislative authority
3 to act generally and prospectively in the interest of the public. The
4 quasi-judicial commission authority recognized in this section is a
5 legitimate function and does not, in the judgment of the General Assembly,
6 constitute an unlawful delegation of judicial authority under either the
7 Arkansas Constitution or the United States Constitution."

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9 SECTION 2. All provisions of this act of a general and permanent
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
11 Code Revision Commission shall incorporate the same in the Code.

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13 SECTION 3. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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19 SECTION 4. All laws and parts of laws in conflict with this act are
20 hereby repealed.

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