

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

As Engrossed: H3/9/01 H3/15/01 H3/28/01

83rd General Assembly

## A Bill

Regular Session, 2001

HOUSE BILL 2369

By: Representative Broadway

### For An Act To Be Entitled

AN ACT TO GRANT THE ARKANSAS PUBLIC SERVICE  
COMMISSION ADDITIONAL AUTHORITY TO ENSURE THE  
AVAILABILITY OF ELECTRICITY; AND FOR OTHER  
PURPOSES.

### Subtitle

TO GRANT THE ARKANSAS PUBLIC SERVICE  
COMMISSION ADDITIONAL AUTHORITY TO  
ENSURE THE AVAILABILITY OF ELECTRICITY.

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

*SECTION 1. Arkansas Code 23-18-101 is amended to read as follows:  
23-18-101. Areas of service.*

*(a) Notwithstanding any provisions of law or the terms of any  
certificate of convenience and necessity, franchise, permit, license, or  
other authority granted to a public utility or electric cooperative  
corporation by the state or a municipality, no ~~public~~ such electric utility  
~~or electric cooperative corporation~~ shall furnish, or offer to furnish,  
electric service at retail and not for resale in any area allocated by the  
Arkansas Public Service Commission to another electric ~~cooperative~~  
~~corporation or public utility~~, except as provided in subsection (b) or in the  
Electric Consumer Choice Act of 1999, as now or hereafter amended.*

*(b) As an interim measure to assist in ensuring an adequate supply of  
electricity until retail open access is implemented for an electric utility  
pursuant to the Electric Consumer Choice Act of 1999, as now or hereafter  
amended:*

1           (1) The Arkansas Public Service Commission may allow an  
2 industrial electric utility customer to choose to obtain directly or  
3 indirectly all or part of the customer's firm, interruptible or other  
4 electric generation service from an alternative supplier or suppliers,  
5 including the customer's affiliates and the customer's generation sources, at  
6 one or more locations. For purposes of this subsection (b), an industrial  
7 electric utility customer is one whose aggregate maximum peak demand at one  
8 or more locations served by the electric utility exceeds 500 kW.

9           (2) The commission shall implement this subsection (b) only  
10 after notice and hearing and upon terms and conditions that are just,  
11 reasonable, non-discriminatory, consistent with the public interest and  
12 necessary or advisable to ensure an adequate supply of electric generation  
13 capacity. In determining the public interest, the commission shall ensure  
14 that neither the reliability nor the rates of other customers or customer  
15 classes are adversely affected. The commission shall also determine in  
16 implementing this subsection (b) that such implementation produces net  
17 economic or societal benefits to the electric utility's customers.

18           (3) In determining the public interest, the commission shall  
19 consider:

20                   (A) The impact upon the electric utility, including but  
21 not limited to the electric utility's operations and its rate of return;

22                   (B) Whether the terms and conditions upon which a customer  
23 may be allowed to return to generation service provided by the electric  
24 utility would adversely affect the reliability or rates of other customers or  
25 customer classes;

26                   (C) Whether reasonable provision has been made for the  
27 contingency of future statutory changes relative to implementation of retail  
28 open access;

29                   (D) Any impact upon existing non-standard agreements for  
30 electric service; and

31                   (E) Any impact upon distribution and transmission system  
32 reliability.

33           (4) This subsection (b) shall in no way restrict any customer's  
34 or class of customers' rights to participate in retail open access pursuant  
35 to the Electric Consumer Choice Act of 1999, as now or hereafter amended,  
36 when retail open access is implemented for the electric utility serving the

1 areas in which the customer or customer class is located.

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3       SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
4 General Assembly that electricity is a necessity and that existing law may  
5 unnecessarily limit the authority of the Arkansas Public Service Commission  
6 in ensuring that the citizens of Arkansas have an adequate supply of  
7 electricity. Therefore, an emergency is declared to exist and this act being  
8 immediately necessary for the preservation of the public peace, health and  
9 safety shall become effective on the date of its approval by the Governor.  
10 If the bill is neither approved nor vetoed by the Governor, it shall become  
11 effective on the expiration of the period of time during which the Governor  
12 may veto the bill. If the bill is vetoed by the Governor and the veto is  
13 overridden, it shall become effective on the date the last house overrides  
14 the veto.

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16                                   /s/ Broadway  
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