

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.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1417

4  
5 By: Representatives Allen, J. Brown  
6 By: Senator Bookout

## For An Act To Be Entitled

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10 AN ACT TO ENUMERATE CERTAIN POWERS OF THE  
11 ARKANSAS PUBLIC SERVICE COMMISSION CONCERNING THE  
12 REGULATION OF PUBLIC UTILITY RATES; AND FOR OTHER  
13 PURPOSES.

## Subtitle

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16 TO ENUMERATE CERTAIN POWERS OF THE  
17 ARKANSAS PUBLIC SERVICE COMMISSION  
18 CONCERNING THE REGULATION OF PUBLIC  
19 UTILITY RATES.

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

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24 SECTION 1. Arkansas Code § 23-2-304 is amended to read as follows:

25 23-2-304. Certain powers of ~~commission~~ Arkansas Public Service  
26 Commission enumerated.

27 (a) Upon complaint or upon its own motion and upon reasonable notice  
28 and after a hearing, the Arkansas Public Service Commission shall have the  
29 power to:

30 (1) Find and fix just, reasonable, and sufficient rates to be  
31 thereafter observed, enforced, and demanded by any public utility;

32 (2) Determine the reasonable, safe, adequate, and sufficient  
33 service to be observed, furnished, enforced, or employed by any public  
34 utility and to fix this service by its order, rule, or regulation;

35 (3) Ascertain and fix adequate and reasonable standards,  
36 classifications, regulations, practices, and services to be furnished,



1 imposed, observed, and followed by any or all public utilities;

2 (4) Ascertain and fix adequate and reasonable standards for the  
 3 measurement of quantity, quality, pressure, initial voltage, or other  
 4 conditions pertaining to the supply of all products, commodities, or services  
 5 furnished or rendered by any and all public utilities;

6 (5) Prescribe reasonable regulations for the examination and  
 7 testing of the production, commodity, or service, and, for the measurement  
 8 thereof, establish or approve reasonable rules, regulations, specifications,  
 9 and standards to secure the accuracy of all meters or appliances for  
 10 measurement;

11 (6) Provide for the examination and testing of ~~any and~~ all  
 12 appliances used for the measurement of any product, commodity, or service of  
 13 any public utility;

14 (7)(A) Ascertain and fix the value of the whole or any part of  
 15 the property of any public utility insofar as this value is material to the  
 16 exercise of the jurisdiction of the commission.

17 (B) The commission may make revaluations of the whole or  
 18 any part of the property from time to time and may ascertain the value of any  
 19 new construction, extension, and addition to or retirement from the property  
 20 of every public utility;

21 (8)(A) Require ~~any or all~~ a public ~~utilities~~ utility to carry a  
 22 proper and adequate depreciation account in accordance with such rules,  
 23 regulations, and forms of account as the commission may prescribe.

24 (B) The commission may ascertain, determine, and by order  
 25 fix the proper and adequate rates of depreciation of the several classes of  
 26 property of each public utility.

27 (C) Each public utility shall conform its depreciation  
 28 accounts to the rates so ascertained, determined, and fixed by the  
 29 commission;

30 (9) Assure that retail customers should have access to safe,  
 31 reliable, and affordable electricity, including protection against service  
 32 disconnections in extreme weather or in cases of medical emergency or  
 33 nonpayment for unrelated services; and

34 (10)(A) Assure that electric utility bills, usage, and payment  
 35 records should be treated as confidential unless the retail customer consents  
 36 to their release or the information is provided only in the aggregate.

1 (B) Notwithstanding subdivision (a)(10)(A) of this  
 2 section, release of such information may be made pursuant to subpoena, court  
 3 order, or other applicable statute, rule, or regulation.

4 (b) Because of competitive and technological changes relating to the  
 5 services provided by telephone public utilities, the commission, upon  
 6 petition by the telephone public utility, after notice and hearing and a  
 7 finding that it is in the public interest, may deviate from the rate/base  
 8 rate of return method of regulation in establishing rates and charges for  
 9 services provided by the telephone public utility.

10 (c) After notice and hearing and a finding that it is in the public  
 11 interest, the commission shall have the power to:

12 (1) Adopt alternative ratemaking mechanisms including without  
 13 limitation surcharges, formula rate adjustment mechanisms, automatic rate  
 14 adjustment mechanisms, rate riders, and other tariff mechanisms;

15 (2) Deviate from the rate/base rate of return method of  
 16 regulation in establishing rates and charges for services provided by a  
 17 public utility;

18 (3)(A) Include in a public utility's rates reasonable and  
 19 prudent development costs incurred by the utility to research, develop, and  
 20 pursue new generation investment.

21 (B) To qualify under this subdivision (c)(3) for inclusion  
 22 in a public utility's rates, the development costs shall be:

23 (i) Consistent with the public utility's most recent  
 24 resource plan filing with the commission; and

25 (ii) Incurred pursuant to the commission's prior  
 26 approval authorizing the public utility to incur the development costs; and

27 (4) Allow recovery of and a return on reasonable and prudent  
 28 construction work in progress expenditures or allow recovery of reasonable  
 29 and prudent allowance for funds used during construction associated with the  
 30 construction of a major utility facility as defined in § 23-18-503(5).

31 (d)(1)(A) Electric transmission system upgrades as defined in  
 32 subdivision (d)(1)(B) of this section are presumed to be reasonable and  
 33 prudent.

34 (B) As used in this subsection (d), "electric transmission  
 35 system upgrades" means the construction of new electric transmission  
 36 facilities resulting from an order of a federal regulatory authority with

1 lawful jurisdiction over the interstate regulation of electric transmission  
2 rates or as directed by a transmission organization certified or recognized  
3 by the Federal Energy Regulatory Commission, including without limitation a  
4 regional transmission organization or an independent coordinator of  
5 transmission.

6 (2) Upon petition by an electric public utility and after notice  
7 and hearing and a finding that the electric transmission system upgrades and  
8 the costs of the electric transmission system upgrades are in fact reasonable  
9 and prudent based upon substantial evidence, the commission shall allow the  
10 Arkansas retail portion of the reasonable and prudent costs to be recovered  
11 through rates established by the commission.

12 (e) In the discharge of its duties under this act, the commission may:

13 (1) ~~cooperate~~ Cooperate with regulatory commissions of other  
14 states and of the United States; and

15 (2) ~~It may also hold~~ Hold joint hearings and make joint  
16 investigations with ~~such~~ the regulatory commissions of other states and of  
17 the United States.

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