

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

SENATE BILL 663

4
5 By: Senator Horn
6 By: Representative Rainey

For An Act To Be Entitled

10 AN ACT TO PROVIDE AN ALTERNATIVE PROCEDURE FOR
11 MODIFYING THE RATES AND CHARGES OF A GENERATION
12 AND TRANSMISSION COOPERATIVE; TO PROVIDE AN
13 ALTERNATIVE PROCEDURE FOR MODIFYING THE RATES AND
14 CHARGES OF A MEMBER COOPERATIVE; AND FOR OTHER
15 PURPOSES.

Subtitle

18 TO PROVIDE AN ALTERNATIVE PROCEDURE FOR
19 MODIFYING THE RATES AND CHARGES OF A
20 GENERATION AND TRANSMISSION COOPERATIVE
21 AND A MEMBER COOPERATIVE.

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code Title 23, Chapter 4 is amended to add an
27 additional subchapter to read as follows:

28 23-4-1101. Definitions.

29 As used in this subchapter:

30 (1) "Board" means the board of directors of a generation and
31 transmission cooperative;

32 (2) "Generation and transmission cooperative" means a rural electric
33 cooperative formed under the Electric Cooperative Corporation Act, § 23-18-
34 301 et seq., that:

35 (A) Does not have a certificated service territory; and

36 (B) Exclusively sells electricity at wholesale;



1 (3) "Member cooperative" means a rural electric cooperative that sells
 2 electricity at retail and is a member of a generation and transmission
 3 cooperative; and

4 (4) "Retail cooperative member" means the individual member-owner of a
 5 member cooperative.

6
 7 23-4-1102. Exemption from general rate case procedure.

8 (a) A generation and transmission cooperative may modify its rates and
 9 charges without a public hearing if:

10 (1) At least three-fourths (3/4) of its board votes to change
 11 its rates and charges;

12 (2) A proposed increase in the generation and transmission
 13 cooperative's rates and charges does not exceed five percent (5%) of the
 14 total gross revenues of the generation and transmission cooperative; and

15 (3) Any additional requirements of this subchapter are
 16 satisfied.

17
 18 23-4-1103. Notification of proposed rate and charge modification.

19 (a)(1) A generation and transmission cooperative shall notify the
 20 Arkansas Public Service Commission, the Attorney General, and the member
 21 cooperatives in writing at least sixty (60) days before the board votes on a
 22 proposed modification of its rates and charges under § 23-4-1102.

23 (2)(A) The notice under subdivision (a)(1) of this section
 24 shall:

25 (i) Be in writing;

26 (ii) Include a schedule of the proposed modification
 27 of rates and charges; and

28 (iii) Include the effective date of the proposed
 29 change.

30 (B) However, if the board subsequently reduces a proposed
 31 increase in rates and charges after providing notice under subdivision (a)(1)
 32 of this section, the board does not have to provide any additional notice
 33 under this subsection.

34 (b)(1) The generation and transmission cooperative shall provide
 35 notice of its proposed modification of its rates and charges to the public
 36 not less than forty (40) days before the board votes on the proposed change

1 in its rates and charges.

2 (2) The notice under subdivision (b)(1) of this section shall:

3 (A) Be substantially similar to the public notice required
 4 by the commission's Rules of Practice and Procedure for general rate case
 5 procedures;

6 (B) Be published in:

7 (i) A newspaper of general circulation in the
 8 service territory of the generation and transmission cooperative; or

9 (ii) Either of the following:

10 (a) Any publication that is regularly provided
 11 to the retail cooperative members by the member cooperatives; or

12 (b) The generation and transmission
 13 cooperative's newsletter to retail cooperative members; and

14 (C) Include a statement estimating:

15 (i) The retail impact of the proposed change in
 16 rates and charges on:

17 (a) A per-kilowatt-hour basis; and

18 (b) An average residential retail cooperative
 19 member's monthly bill; and

20 (ii) The effective date of the proposed change in
 21 rates and charges.

22
 23 23-4-1104. Alternative procedure for modifying the rates and charges
 24 of a generation and transmission cooperative.

25 (a)(1)(A) After the board approves the modification in rates and
 26 charges under § 23-4-1102, the generation and transmission cooperative shall
 27 file for the approval of the Arkansas Public Service Commission an
 28 application for the change in rates and charges and tariffs containing the
 29 proposed change in rates and charges.

30 (B) However, a rate rider to the generation and
 31 transmission cooperative's base rates and charges shall not be modified under
 32 this subchapter.

33 (2) In addition to an attachment containing the proposed
 34 tariffs to effect the modification of the rates and charges, the application
 35 shall provide the following:

36 (A) Proof of the board vote required by § 23-4-1102;

1 (B) The proof of notice required by § 23-4-1103;

2 (C) A current calculation of the generation and
3 transmission cooperative's:

4 (i) Times interest earned ratio;

5 (ii) Debt service coverage ratio; and

6 (iii) Margins as a percent of revenue for the last
7 available calendar year;

8 (D) An analysis of the impact of the proposed change in
9 rates and charges on each member cooperative's cost of wholesale power that
10 is acquired from the generation and transmission cooperative;

11 (E) Documentary evidence that the impact of the proposed
12 change in rates and charges does not exceed five percent (5%) of the
13 generation and transmission cooperative's total gross revenues for the
14 previous calendar year;

15 (F) Documentation that shows the derivation of the
16 generation and transmission cooperative's proposed changes in its rates and
17 charges; and

18 (G)(i) Any other supporting documentation or evidence
19 required by the commission.

20 (ii)(a) However, the commission shall not require
21 the generation and transmission cooperative to prepare a cost of service
22 study.

23 (b) Instead of a new cost of service study,
24 the generation and transmission cooperative shall rely upon the most recent
25 commission-approved cost allocation resulting from either the generation and
26 transmission cooperative's last cost of service study or the other method
27 underlying the commission's determination.

28 (b) Within ninety (90) days after the date of filing the generation
29 and transmission cooperative's application, the commission shall issue its
30 final determination regarding the proposed modification of the rates and
31 charges of the generation and transmission cooperative.

32

33 23-4-1105. Alternative procedure for modifying the rates and charges
34 of a member cooperative.

35 (a) A member cooperative may propose a modification of its retail
36 rates and charges to incorporate the proposed change in the generation and

1 transmission cooperative's wholesale rates and charges filed under § 23-4-
2 1104 if:

3 (1) The member cooperative files its application for a
4 modification of its retail rates and charges with the Arkansas Public Service
5 Commission on the same date as the generation and transmission cooperative
6 files its application for a modification of its change in wholesale rates and
7 charges under § 23-4-1104; and

8 (2) The member cooperative apportions its proposed change in
9 rates and charges in a manner that reflects, as closely as practicable, its
10 cost of providing service to each class.

11 (b) Within ninety (90) days after a member cooperative files its
12 application under subsection (a) of this section, the commission shall review
13 and approve the modification of the rates and charges of a member
14 cooperative's retail rates and charges that reasonably reflect those changes
15 in the generation and transmission cooperative's wholesale rates and charges
16 that were approved by the commission under § 23-4-1104.

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18 23-4-1106. Limitation on increase in rates.

19 The generation and transmission cooperative shall not increase its
20 rates and charges under this subchapter by an aggregate total of more than
21 eight percent (8%) during any twenty-four-month period.

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23 23-4-1107. Arkansas Public Service Commission's jurisdiction not
24 affected.

25 This subchapter does not affect the Arkansas Public Service
26 Commission's jurisdiction over a generation and transmission cooperative or a
27 member cooperative as otherwise provided by law.

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29 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
30 General Assembly of the State of Arkansas that the costs that drive electric
31 utility costs are constantly changing; that electric cooperatives need to
32 have procedures that permit their rates to change in response to those
33 changing conditions; and that this act is immediately necessary because it is
34 crucial to the provision of safe and reliable electric service that electric
35 cooperatives recover their costs in a timely manner. Therefore, an emergency
36 is declared to exist and this act being immediately necessary for the

1 preservation of the public peace, health, and safety shall become effective
2 on:

3 (1) The date of its approval by the Governor;

4 (2) If the bill is neither approved nor vetoed by the Governor,
5 the expiration of the period of time during which the Governor may veto the
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is
8 overridden, the date the last house overrides the veto.

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