1 2	90th General Assembly	A Bill	
3	Regular Session, 2015		SENATE BILL 727
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7	-	For An Act To Be Entitled	
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9		FY THE REGULATION OF PUBLIC	
10		S PUBLIC SERVICE COMMISSION	N; IO DECLARE
11 12	·	AND FOR OTHER PURPOSES.	
12			
14		Subtitle	
15		THE REGULATION OF PUBLIC	
16		BY THE ARKANSAS PUBLIC SE	RVICE
17	COMMISSIO	N; AND TO DECLARE AN EMERG	ENCY.
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20	BE IT ENACTED BY THE GENER	AL ASSEMBLY OF THE STATE OF	F ARKANSAS:
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22	SECTION 1. Arkansas	Code § 23-3-505(b), concer	rning a hearing by the
23	Arkansas Public Service Co	nmission, is amended to rea	ad as follows:
24	(b) The Unless waive	ed by the parties, the hear	ring shall be held in the
25	offices of the commission	or at such other place as t	the commission may
26	designate.		
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28	SECTION 2. Arkansas	Code § 23-4-501 is amended	d to read as follows:
29	23-4-501. Legislativ	ve findings and intent $-$ Au	thority to recover costs
30	through interim rate sched	<u>ule</u> .	
31	(a) It is recognized	d that legislative or admir	nistrative <u>rules,</u>
32	regulations <u>, or requiremen</u>	<u>ts</u> impose certain legal <del>rec</del>	<del>quirements</del> <u>obligations</u>
33	upon public utilities rela	ting to the protection of t	the public health,
34	• •	, and that:	
35		to comply with such legisla	
36	administrative rules, regu	<u>lations, or</u> requirements, ι	itilities <del>are required to</del>

- 1 must make substantial additional investments or incur additional expenses
- 2 with respect to existing facilities used and useful in providing service to
- 3 the utility's customers; and
- 4 (2) Although such additional investments and expenses are
- 5 necessary in order to provide service to the utility's utility customers,
- 6 such additional investments and expenses, when made, are not included in the
- 7 utility's utility rates and cannot be recovered in a prompt and timely
- 8 fashion under existing regulatory procedures.
- 9 (b)(1) It is intended by the General Assembly that Public utilities be
- 10 permitted to shall recover in a prompt and timely manner all such costs
- 11 investments and expenses not currently being recovered in existing rates that
- 12 are incurred by utilities in order to comply with such legislative or
- 13 regulatory administrative rules, regulations, or requirements relating to the
- protection of the public health, safety, or the environment through an 14
- 15 interim surcharge which, if approved, shall be effective until the
- 16 implementation of new rate schedules in connection with the next general rate
- 17 filing of the public utility wherein in which such additional investments or
- 18 expenses can be included in the utility's base rate schedules.
- 19 (2) However, the costs to be recovered through such an interim
- 20 surcharge described in subdivision (b)(1) of this section shall not include
- 21 increases in the cost for employment compensation or benefits as a result of
- 22 legislative or regulatory action.
- 23 (c)(1) A public utility shall be permitted to recover, through an
- 24 interim surcharge, the allowance for funds used during construction that
- 25 would otherwise be accrued and capitalized that is incurred during the
- 26 construction of facilities and equipment required for compliance with such
- 27 legislative or administrative rules, regulations, or requirements provided
- that any such allowance for funds used during construction have not been 28
- capitalized or otherwise included in the utility's currently effective rates. 29
- 30 (2) The public utility shall not capitalize or otherwise recover
- through rates any allowance for funds used during construction incurred in 31
- 32 connection with investments described in subdivision (c)(1) of this section
- 33 when the associated financing costs are included in an interim surcharge.

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SECTION 3. Arkansas Code § 23-4-502 is amended to read as follows: 35

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36 23-4-502. Filing interim rate schedule.

1	Any A public utility as defined in § 23-1-101 may recover all $costs$	
2	investments and expenses that are not already included in the public	
3	utility's currently effective rates and were reasonably incurred by such a	
4	the public utility as a direct result of legislative or regulatory	
5	administrative rules, regulations, or requirements relating to the protection	
6	of the public health, safety, $\frac{1}{2}$ or the environment by filing with the	
7	Arkansas Public Service Commission, no more frequently than $\frac{1}{2}$ one (1) time	
8	every six (6) months, an interim rate schedule $\frac{\text{which}}{\text{that}}$ would impose a	
9	separate surcharge in addition to its currently effective rates until the	
10	implementation of new rate schedules in connection with the next general rate	
11	filing of the <u>public</u> utility <del>wherein</del> <u>in which</u> such <del>additional expenditures</del>	
12	investments and expenses can be included in the public utility's base rate	
13	schedules.	
14		
15	SECTION 4. Arkansas Code § 23-4-503 is amended to read as follows:	
16	23-4-503. Calculation of amount of interim surcharge.	
17	The amount of the <u>interim</u> surcharge to be added to the <u>public</u> utility's	
18	rates shall be calculated so as to produce annual revenues equal to the	
19	additional annualized revenue requirement to which the <u>public</u> utility would	
20	be entitled had the additional expenditures investments and expenses	
21	described in § 23-4-501 been included in the <u>public</u> utility's most recent	
22	rate determination by the Arkansas Public Service Commission.	
23		
24	SECTION 5. Arkansas Code § 23-4-507(a), concerning modification and	
25	disapproval of surcharges by the Arkansas Public Service Commission, is	
26	amended to read as follows:	
27	(a) After its investigation and hearing thereon, the Arkansas Public	
28	Service Commission may modify or disapprove all or any portion of the	
29	surcharge upon a finding that:	
30	(1) The expenditures were not made for the purposes set forth in	
31	§ 23-4-501 investments or expenses were not incurred to comply with	
32	legislative or administrative rules, regulations, or requirements relating to	
33	the protection of the public health, safety, the environment, or were not	
34	reasonably incurred, or were not substantiated;	
35	(2) The amount of the surcharge has been erroneously calculated;	
36	<del>or</del>	

1	(3) The investments of expenses are arready being recovered in	
2	existing rates; or	
3	$\frac{(3)}{(4)}$ The allocation of the surcharge among the customers of	
4	the utility is unreasonable.	
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6	SECTION 6. Arkansas Code § 23-4-507(c), concerning determination of	
7	the just and reasonable amount of surcharges if disapproved by the Arkansas	
8	Public Service Commission, is amended to read as follows:	
9	(c) In the event that $\overline{ ext{If}}$ the commission determines that all or any	
10	portion of the proposed surcharge should be disapproved <del>pursuant to either</del>	
11	under subdivision (a)(1), $\frac{\text{or}(2)}{\text{subdivision (a)(2)}}$ , or subdivision (a)(3) of	
12	this section, the commission shall determine the just and reasonable amount	
13	of the surcharge to be charged or applied by the <u>public</u> utility <del>from and</del>	
14	after the time the proposed surcharge took effect. In the same order, the	
15	commission shall fix the amounts, plus interest, if any, to be refunded to	
16	the utility's customers.	
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18	SECTION 7. Arkansas Code § 23-18-518 is amended to read as follows:	
19	23-18-518. Conduct of hearing.	
20	(a) The Arkansas Public Service Commission shall hold a hearing,	
21	unless waived by the parties, on an application filed under § 23-18-511.	
22	(b) A record shall be made of the hearing and of all testimony taken	
23	and the cross-examination thereon.	
24	(b)(c) Rules of evidence as specified by the Arkansas Public Service	
25	Commission the commission shall apply to the proceeding.	
26	$\frac{(e)(d)}{d}$ The commission may provide for the consolidation of the	
27	representation of parties having similar interests.	
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29	SECTION 8. EMERGENCY CLAUSE. It is found and determined by the	
30	General Assembly of the State of Arkansas that a recent decision of the	
31	Arkansas Court of Appeals has interpreted Act 310 of 1981 in a manner that is	
32	inconsistent with the interpretation of the Arkansas Public Service	
33	Commission; that this inconsistency impairs public utilities in their	
34	recovery, through an interim rate surcharge, of all investments and expenses	
35	that are not already included in the public utilities' currently effective	
36	rates and that were reasonably incurred by the public utilities as a direct	

1	result of legislative or administrative rules, regulations, or requirements		
2	relating to the protection of the public health, safety, or the environment;		
3	and that this act is immediately necessary to facilitate the timely recovery		
4	of investments and expenses so that public utilities may provide services to		
5	consumers in this state in a timely, efficient, and cost-effective manner.		
6	Therefore, an emergency is declared to exist, and this act being immediately		
7	necessary for the preservation of the public peace, health, and safety shall		
8	become effective on:		
9	(1) The date of its approval by the Governor;		
10	(2) If the bill is neither approved nor vetoed by the Governor,		
11	the expiration of the period of time during which the Governor may veto the		
12	bill; or		
13	(3) If the bill is vetoed by the Governor and the veto is		
14	overridden, the date the last house overrides the veto.		
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