State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1409

By: Representative Long

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING ENERGY; TO CREATE THE ELECTRIC RELIABILITY ACT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING ENERGY; AND TO CREATE THE ELECTRIC RELIABILITY ACT.

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

SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an additional subchapter to read as follows:

Subchapter 13 — Electric Reliability Act

23-18-1301. Title.

This subchapter shall be known and may be cited as the "Electric Reliability Act".

23-18-1302. Legislative findings.

The General Assembly finds that:

(1) Arkansas residents, including families and industries in this state, depend on reliable and affordable electric utility service for innumerable things they do, from operating lifesaving medical equipment to operating lifesaving building temperature and humidity control;

(2) Electric utility service demand must be met with instant electric utility service supply or interruptions of electric utility service result;

(3) In 2022, two hundred thirty (230) coal plants, that produce twenty percent (20%) of American electric utility service, were targeted for closure by activist groups, state and federal regulators, and utility companies, with dozens of coal plants across the United States slated for closure in the next three (3) years;

(4) Also in 2022, eighty thousand (80,000) wind towers produced nine percent (9%) of electric utility service in the United States, and approximately six thousand (6,000) wind towers are added per year, but at least seven hundred fifty thousand (750,000) more wind towers are needed to replace coal and natural gas generation, and sufficient battery storage is needed to cover the seventy percent (70%) of the time during which wind towers produce little to no electric utility service;

(5) Solar energy produced less than three percent (3%) of electricity in the United States in 2022, and only produces electricity during daylight hours when the sun shines, producing little or no electricity during daily peak demands of 5:00 p.m. to 9:00 p.m.;

(6) The North American Electric Reliability Corporation, the regional transmission organizations, Midcontinent Independent System Operator, and Pennsylvania-New Jersey-Maryland Interconnection have warned that large swathes of the United States face elevated risks of electric utility service shortfalls now and in the future;

(7) Restricting the supply of electric utility service without immediate substitutes jeopardizes reliability and affordability and will cause interruptions of electric utility service, often when needed most, during the hottest and coldest months;

(8) Electric utility service in the United States has remained static for the last twenty (20) years, yet investments in new electric power generation have accelerated;

(9) Rising electric utility service prices and decreased reliability will contribute to overall inflation;

(10) America's coal and natural gas plants should not be recklessly decommissioned or regulated out of existence. Instead, they should be kept online and readily available to provide flexibility for national security in times of war, economic security, supply security, price stability, and reliability;

(11) Winter storms have caused millions to lose electric utility

service for extended periods, costing lives and billions of dollars in damages because of electric utility service shortages and outages;

(12) The affordability and reliability of electric service is of major importance to low-income Arkansans because they spend the largest percentage of their income on energy and are harmed the most by high energy prices; and

(13) Arkansas will use all means necessary to protect this state's electric utility service reliability because regulation of electric utility service and pollutants are not among the constitutionally delegated powers assigned to the United States Government and are reserved to the state under the Tenth Amendment to the United States Constitution.

23-18-1303. Reliability and availability of electric generation facilities — Definitions.

(a) As used in this section:

(1)(A) "Dispatchable" means a source of electric utility service that:

(i) Is readily available for use on demand and can be dispatched upon request of a power grid operator; or

(ii) Can have its power output adjusted according to market needs, except for routine maintenance or repairs.

(B) "Dispatchable" includes on-demand power;

(2) "Electric generation facility" means a facility that uses hydroelectric, coal, natural gas, or nuclear fuel to generate reliable or dispatchable electric utility service to a retail customer for compensation;

(3)(A) "Firm power" means dispatchable, reliable power generation and battery storage of more than twenty-four (24) hours.

(B) "Firm power" does not include power that is not dispatchable; and

(4) "Reliable" means a source of electric utility service that:

(A) Is not subject to intermittent availability;

(B) Has a performance standard of eighty percent (80%) or higher; and

(C) Has a performance standard that only falls below eighty percent (80%) during routine maintenance or repairs.

(b)(1) The Arkansas Public Service Commission shall not authorize or

approve the retirement of an electric generation facility as proposed in a rate case, integrated resource plan, or other submission to the commission until there is an equal or greater contracted new means of firm power available on the electric grid to replace the loss of firm power brought about by the proposed closure of the electric generation facility.

(2) An equal or greater contracted new means of firm power under subdivision (b)(1) of this section shall not be from any future prospects.

(c)(1) In assessing the amount of replacement firm power needed under subdivision (b)(1) of this section, the commission shall consider imminent and planned closures of electric generation facilities in other states of the member regional transmission organizations in addition to the imminent and planned closures in this state.

(2) If other states of the member regional transmission organizations are not replacing their retired or closed electric generation facilities or other means of firm power that are scheduled for retirement with an equal or greater amount of firm power, the commission shall include the lack of replacements to the calculations of this state's replacement of firm power under subdivision (b)(1) of this section before approving the proposed closure of an electric generation facility.

(d)(1) If the United States Government through regulation forces costly upgrades or other requirements leading to the closure of existing electric generation facilities, the commission shall seek a waiver from the federal government until there is sufficient replacement firm power available to the electric grid to replace the retired electric generation facility.

(2) If a waiver is requested under subdivision (d)(1) of this section but is not granted, the commission shall seek a court injunction and bring litigation against the implementation of the closure of an electric generation facility.