

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.

Act 647 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/14/07

A Bill

HOUSE BILL 2543

5 By: Representative Wood  
6  
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8 **For An Act To Be Entitled**

9 AN ACT TO ENHANCE THE ABILITY OF THE ARKANSAS  
10 PUBLIC SERVICE COMMISSION TO PROTECT RATEPAYERS  
11 IN PROCEEDINGS BEFORE THE FEDERAL ENERGY  
12 REGULATORY COMMISSION, OTHER FEDERAL AGENCIES,  
13 AND FEDERAL COURTS; AND FOR OTHER PURPOSES.  
14

15 **Subtitle**

16 TO ENHANCE THE ABILITY OF THE ARKANSAS  
17 PUBLIC SERVICE COMMISSION TO PROTECT  
18 RATEPAYERS IN PROCEEDINGS BEFORE THE  
19 FEDERAL ENERGY REGULATORY COMMISSION,  
20 OTHER FEDERAL AGENCIES, AND FEDERAL  
21 COURTS.  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 23-4-102 is amended to read as follows:

27 23-4-102. Commission's authority over interstate rates, charges, ~~and~~  
28 classifications, and other actions.

29 (a) The ~~commission~~ Arkansas Public Service Commission shall have the  
30 power to investigate all existing or proposed interstate rates, charges, and  
31 classifications, and all rules and practices in relation thereto promulgated  
32 and prescribed by or for any public utility as defined in § 23-1-101, when  
33 the matters so investigated shall affect the public of this state.

34 (b) When the existing or proposed interstate rates, charges, and  
35 classifications are in the opinion of the ~~commission~~ Arkansas Public Service



1 Commission excessive or discriminatory, or in violation of ~~the Interstate~~  
2 ~~Commerce Act and acts amendatory thereof and supplementary thereto, or in~~  
3 ~~violation of any other~~ act of Congress, or in conflict with the rules,  
4 orders, or regulations of ~~the Interstate Commerce Commission [abolished]~~ or  
5 ~~any other~~ a commission created by Congress, the ~~commission~~ Arkansas Public  
6 Service Commission may apply by petition or otherwise to the Interstate  
7 ~~Commerce Commission [abolished]~~, or other ~~commission having jurisdiction, for~~  
8 ~~relief~~ seek relief in the appropriate commission or in a court of competent  
9 jurisdiction.

10 (c) For the purpose of this section, the Arkansas Public Service  
11 Commission:

12 (1) Is exempt from the provisions of § 25-16-702 whenever the  
13 commission is a party to a proceeding under subsection (b) of this section;

14 (2) May retain contract attorneys or contract consultants; and

15 (3)(A) May adopt rules for direct recovery of the fees and  
16 expenses of contract attorneys and consultants from the affected utility  
17 under this section provided that such utility is an electric public utility  
18 which is owned by a public utility holding company as defined by section 1261  
19 of the Energy Policy Act of 2005, Pub. L. No. 109-58. The maximum amount  
20 that may be directly recovered from an affected utility shall be three  
21 million dollars (\$3,000,000) annually.

22 (B) In the event the Commission directly recovers the fees  
23 and expenses of its attorneys and consultants from an affected utility under  
24 this section, that utility shall be allowed to implement a surcharge  
25 mechanism to recover only the expenses directly recovered from that utility.

26 (i) The surcharge shall be established annually to  
27 recover only the amounts directly recovered from that utility during the  
28 preceding calendar year.

29 (ii) The surcharge mechanism shall include  
30 provisions to address any excessive or deficient recoveries during the  
31 preceding calendar year. The surcharge shall not include any interest or  
32 carrying charges.

33 (iii) Any surcharge must be approved by the  
34 Commission before it can be implemented.

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36 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that the rates paid by customers of  
2 public utilities may be affected in a manner that is burdensome to Arkansas  
3 utility consumers and harmful to economic development and that the Arkansas  
4 Public Service Commission needs to be immediately authorized to employ  
5 counsel and experts to protect the utility consumers or Arkansas. Therefore,  
6 an emergency is declared to exist and this act being immediately necessary  
7 for the public peace, health, and safety shall become effective on:

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

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

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

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15 */s/ Wood*

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17 **APPROVED: 3/28/2007**