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4

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A Bill

SENATE BILL 307

5 By: Senators J. Dismang, M. McKee, J. Boyd, S. Flowers, R. Murdock, B. Johnson, B. Davis, Hester,
6 Gilmore

7 By: Representatives Eaves, Achor, F. Allen, Barnett, Beaty Jr., Brooks, M. Brown, Clowney, Cozart,
8 Duffield, Eaton, Eubanks, Evans, K. Ferguson, Gramlich, Hall, Jean, L. Johnson, Ladyman, Lynch,
9 Maddox, B. McKenzie, Pilkington, J. Richardson, R. Scott Richardson, Rye, Unger, Warren, Wing,
10 Wooten

For An Act To Be Entitled

11
12 AN ACT TO AMEND THE LAW CONCERNING PUBLIC UTILITIES;
13 TO CREATE THE GENERATING ARKANSAS JOBS ACT OF 2025;
14 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
15
16

Subtitle

17
18 TO AMEND THE LAW CONCERNING PUBLIC
19 UTILITIES; TO CREATE THE GENERATING
20 ARKANSAS JOBS ACT OF 2025; AND TO
21 DECLARE AN EMERGENCY.
22
23

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

26 SECTION 1. Arkansas Code § 23-3-201(a), concerning requirements for
27 new construction or operation of equipment or facilities, is amended to read
28 as follows:

29 (a) New construction or operation of equipment or facilities that are
30 located within this state for supplying a public service or the extension of
31 a public service within this state shall not be undertaken without first
32 obtaining from the Arkansas Public Service Commission a certificate that
33 public convenience and necessity require or will require the construction or
34 operation within this state.
35

36 SECTION 2. Arkansas Code § 23-3-201(b), concerning when a certificate



1 of public convenience is not required, is amended to add additional
2 subdivisions to read as follows:

3 (3)(A) A public utility shall provide notice to the commission
4 of the public utility's intent to recover any strategic investments that are
5 subject to this subchapter through a rider under the Generating Arkansas Jobs
6 Act of 2025, § 23-4-1301 et seq. as part of the public utility's application
7 under this subchapter.

8 (B) To the extent a member cooperative of a generation and
9 transmission cooperative is exempt from the requirement to obtain a
10 certificate of public convenience and necessity under subsection (b) of this
11 section, the exemption shall extend to the generation and transmission
12 cooperative.

13 (C) An exemption claimed by a public utility under this
14 section or under § 23-18-504(a)(5) does not bar:

15 (i) The public utility from voluntarily seeking the
16 issuance of a certificate of public convenience and necessity under this
17 section; or

18 (ii) The commission from:

19 (a) Granting the public utility the
20 certificate of public convenience and necessity sought under subdivision
21 (d)(1) of this section; and

22 (b) Allowing the public utility to seek
23 recovery of the reasonable cost of the equipment or facilities through rates.
24

25 SECTION 3. Arkansas Code § 23-3-201, concerning requirements for a
26 certificate of public convenience and necessity, is amended to add an
27 additional subsection to read as follows:

28 (e) As used in this section:

29 (1) "Generation and transmission cooperative" means the same as
30 defined in § 23-4-1101;

31 (2) "Major utility facility" means the same as defined in § 23-
32 18-503; and

33 (3) "Strategic investments" means the same as defined in § 23-4-
34 1303.

35

36 SECTION 4. Arkansas Code Title 23, Chapter 3, Subchapter 2, is amended

1 to add an additional section to read as follows:

2 23-3-207. Issuance of certificate of public convenience and necessity.

3 (a) If the Arkansas Public Service Commission determines that granting
4 a certificate of public convenience and necessity is consistent with the
5 public interest, the commission shall enter an order granting a certificate
6 of public convenience and necessity within six (6) months after the public
7 utility submits an application for a certificate of public convenience and
8 necessity.

9 (b)(1) If the commission determines that granting a certificate of
10 public convenience and necessity is not in the public interest, the
11 commission shall enter an order denying the certificate of public convenience
12 and necessity.

13 (2) In the order entered by the commission under subdivision
14 (b)(1) of this section, the commission shall discuss:

15 (A) The basis for the commission's findings; and

16 (B) Any evidence or other information submitted by the
17 public utility as part of its notice or application that the commission deems
18 to be insufficient.

19 (3)(A) If a public utility submits additional evidence or other
20 information to the commission demonstrating that the strategic investments,
21 as defined in § 23-4-1303, that are subject to this subchapter are
22 reasonable, necessary, and in the public interest, then the commission shall
23 enter an order granting the certificate of public convenience and necessity
24 within thirty (30) days after the date of the public utility's filing.

25 (B) If the commission finds that the strategic investments
26 that are subject to this subchapter are not reasonable, necessary, or in the
27 public interest, the commission shall enter an order denying the certificate
28 of public convenience and necessity.

29 (C) In the order issued under subdivision (b)(3)(B) of
30 this section, the commission shall discuss:

31 (i) The basis for the commission's findings; and

32 (ii) Any evidence or other information submitted by
33 the public utility as part of its notice or application that the commission
34 deems to be insufficient.

35 (D) The process outlined in subdivisions (b)(3)(B) and (C)
36 of this section may continue until the commission finds that:

1 (i) The public utility's application complies with
 2 this subchapter;

3 (ii) The public utility withdraws its application;
 4 or

5 (iii) The public utility appeals the commission's
 6 decision under § 23-2-423.

7
 8 SECTION 5. Arkansas Code § 23-4-901, concerning definitions used under
 9 a rate case by the Arkansas Public Service Commission, is amended to add
 10 additional subdivisions to read as follows:

11 (5) "Notice" means a written form document, not an application,
 12 that contains only as much information as is needed to provide the necessary
 13 information to the commission and member-consumers as is specifically
 14 required under this subchapter; and

15 (6) "Rate case procedures" means the administrative procedures
 16 and requirements normally required by a co-op when adjusting rates and
 17 charges under §§ 23-4-402, 23-4-405, 23-4-407 – 23-4-418, 23-4-422, and 23-4-
 18 620 – 23-4-634 or other applicable statutes and rules of the commission.

19
 20 SECTION 6. Arkansas Code § 23-4-902 is amended to read as follows:

21 23-4-902. Exemption from rate case procedures, etc.

22 A co-op, ~~as defined in § 23-4-901,~~ shall not be subject to rate case
 23 procedures and hearings ~~and other requirements of §§ 23-4-402 – 23-4-405, 23-~~
 24 ~~4-407 – 23-4-418, and 23-4-620 – 23-4-634 and Arkansas Public Service~~
 25 ~~Commission rules implementary thereof, hereafter referred to as "rate case~~
 26 ~~procedures",~~ by the ~~commission~~ Arkansas Public Service Commission unless:

27 (1) By action of its board of directors, the co-op elects to be
 28 subject to rate case procedures by the commission;

29 (2) A proposed change in the co-op's rates and charges exceeds
 30 ten percent (10%) of total gross revenues;

31 (3) Ten percent (10%) of the co-op's member-consumers petition
 32 the commission to apply rate case procedures, and the commission notifies the
 33 co-op that the commission will initiate an investigation and may apply rate
 34 case procedures if the commission determines that there is substantial
 35 evidence indicating that rates and charges are unreasonable; or

36 (4) As otherwise provided in this subchapter.

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SECTION 7. Arkansas Code § 23-4-903 is amended to read as follows:
23-4-903. Notification of proposed rate change.

(a) Each co-op not subject to rate case procedures, at least ninety (90) days before the effective date of any proposed rate change, shall notify the Arkansas Public Service Commission and each of its member-consumers of the proposed rate change. Notice to the commission shall include a verified statement showing the then total number of member-consumers of the co-op.

Notice by the co-op to its member-consumers shall:

(1) Be in a notice form prescribed by the commission;

(2) Be by regular mail and may be included in regular member-consumer billings or in regularly published co-op newsletters provided to its member-consumers; ~~and~~

(3) Include a schedule of the proposed rate change, the effective date of the proposed rate change, and the procedure necessary for the member-consumers to petition the commission to apply rate case procedures; and

(4) Not require a new cost-of-service study, application for approval, or additional rate case procedure requirement.

(b) The commission shall not require or establish additional notice or filing requirements for a co-op that is adjusting the co-op's rates and charges under this subchapter and shall certify whether the co-op met the notice requirements set forth in this subchapter.

SECTION 8. Arkansas Code § 23-4-905 is amended to read as follows:
23-4-905. Petition for relief from rate change – Effect.

(a)(1) If, by the effective date of the proposed change in rates and charges, the Arkansas Public Service Commission has received petitions from fewer than ~~fifteen percent (15%)~~ ten percent (10%) of the member-consumers requesting that the commission apply rate case procedures, then the commission shall immediately certify that fact to the co-op.

(2) The proposed rates and charges shall become effective as published in the notice to the member-consumers.

(b) Rates and charges so established shall be in effect for not less than one (1) year, subject to the procedure provided for in § 23-4-906. If, on or before the effective date of the proposed change in rates and charges,

1 the commission has received petitions from ten percent (10%) of the member-
2 consumers, then the commission shall notify the co-op that it will initiate
3 an investigation and may apply rate case procedures under § 23-4-908.

4
5 SECTION 9. Arkansas Code § 23-4-907 is amended to read as follows:

6 23-4-907. Commission's jurisdiction not affected.

7 Sections 23-4-902, 23-4-903, 23-4-905, ~~and 23-4-906~~, 23-4-908, and 23-
8 4-909 apply only to rates and charges and shall have no effect on the
9 Arkansas Public Service Commission's jurisdiction over a co-op as otherwise
10 provided by law.

11
12 SECTION 10. Arkansas Code § 23-4-908 is amended to read as follows:

13 23-4-908. Authority of commission.

14 (a) The Upon receipt of a sufficient number of valid petitions under §
15 23-4-905, the Arkansas Public Service Commission shall have the authority to
16 investigate and determine the reasonableness of the change in rates and
17 charges of each co-op changing its rates and charges pursuant to this
18 subchapter, within one (1) year of the time of the change in rates and
19 charges.

20 (b) If the commission preliminarily determines that there is
21 substantial evidence indicating that the rates and charges are unreasonable,
22 the commission shall have the authority to apply rate case procedures.

23 (c)(1) After a hearing thereon, the commission shall have the
24 authority to modify all or any portion of the changes found to be
25 unreasonable.

26 (2) If, following the hearing, the commission orders a change in
27 the co-op's rates and charges, the co-op shall not effect a subsequent change
28 in rates and charges pursuant to this subchapter for a period of twelve (12)
29 months from the date of the commission order.

30
31 SECTION 11. Arkansas Code § 23-4-909 is amended to read as follows:

32 23-4-909. Apportionment of rates and charges.

33 (a) Upon receipt of a sufficient number of valid petitions under § 23-
34 4-905, the Arkansas Public Service Commission may inquire into the
35 reasonableness of the apportionment of rates and charges by a co-op.

36 (b) When determining how rates and charges established under § 23-4-

1 903 are to be allocated among different rate classes, a co-op shall endeavor
2 to apportion the rates and charges in a manner ~~which reflects~~ consistent
3 with, as closely as practicable, the ~~costs of providing service to each class~~
4 last approved cost-of-service study.

5
6 SECTION 12. Arkansas Code § 23-4-1102 is amended to read as follows:

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

8 A generation and transmission cooperative may modify its rates and
9 charges if:

10 (1) At least three-fourths ($\frac{3}{4}$) of its board votes to change its
11 rates and charges, including a proposed change to cost allocation and rate
12 design of the generation and transmission cooperative;

13 (2) A proposed increase in the generation and transmission
14 cooperative's rates and charges does not exceed five percent (5%) in any
15 twelve-month period of the total gross revenues of the generation and
16 transmission cooperative; and

17 (3) Any additional requirements of this subchapter are
18 satisfied.

19
20 SECTION 13. Arkansas Code § 23-4-1104(a)(2), concerning alternative
21 procedures for modifying rates and charges of a generation and transmission
22 cooperative, is amended to read as follows:

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

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

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

28 (C) A current calculation of the generation and
29 transmission cooperative's:

30 (i) Times interest earned ratio;

31 (ii) Debt service coverage ratio; and

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

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

1 (E) Documentary evidence that the impact of the proposed
2 change in rates and charges does not exceed five percent (5%) of the
3 generation and transmission cooperative's total gross revenues for the
4 previous ~~calendar year~~ twelve-month period before the generation and
5 transmission cooperative's notice under § 23-4-1103(a)(1);

6 (F) Documentation that shows the derivation of the
7 generation and transmission cooperative's proposed changes in its rates and
8 charges; and

9 (G)(i) Any other supporting documentation or evidence
10 required by the commission to validate the requirements of this subchapter.

11 (ii)(a) However, the commission shall not require
12 the generation and transmission cooperative to prepare a cost-of-service
13 study.

14 (b) ~~Instead~~ In lieu of voluntarily filing a
15 new cost-of-service study for approval, the generation and transmission
16 cooperative shall rely upon the most recent commission-approved cost
17 allocation.

18
19 SECTION 14. Arkansas Code § 23-4-1105(a), concerning the application
20 for modification of retail rates, is amended to read as follows:

21 (a) A member cooperative may propose a modification of its retail
22 rates and charges to incorporate the proposed change in the generation and
23 transmission cooperative's wholesale rates and charges filed under § 23-4-
24 1104 if:

25 (1) The member cooperative files its application for a
26 modification of its retail rates and charges with the Arkansas Public Service
27 Commission ~~on the same~~ within ten (10) days from the date ~~as~~ the generation
28 and transmission cooperative files its application for a modification of its
29 change in wholesale rates and charges under § 23-4-1104; and

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

33
34 SECTION 15. Arkansas Code § 23-4-1106 is repealed.

35 ~~23-4-1106. Limitation on increase in rates.~~

36 ~~The generation and transmission cooperative shall not increase its~~

1 ~~rates and charges under this subchapter by an aggregate total of more than~~
2 ~~eight percent (8%) during any twenty four month period.~~

3
4 SECTION 16. Arkansas Code Title 23, Chapter 4, is amended to add an
5 additional subchapter to read as follows:

6
7 Subchapter 13 – Generating Arkansas Jobs Act of 2025

8
9 23-4-1301. Title.

10 This subchapter shall be known and may be cited as the "Generating
11 Arkansas Jobs Act of 2025".

12
13 23-4-1302. Legislative findings.

14 The General Assembly finds that:

15 (1) Significant strategic investments in electric utility
16 infrastructure and natural gas utility infrastructure are necessary to enable
17 this state to:

18 (A) Attract and serve economic development projects across
19 a variety of industries;

20 (B) Continue reliable support for existing customers by
21 investing in additions of new electric utility infrastructure and natural gas
22 utility infrastructure to support growth; and

23 (C) Replace retiring electric generation facilities and
24 other electric utility infrastructure and natural gas utility infrastructure;

25 (2) Strategic investments to ensure that electric utilities have
26 adequate dispatchable generation resources to support reliable service for
27 their customers continue to be a significant element in enabling this state
28 to attract and serve these economic development opportunities;

29 (3) Strategic investments in electric utility infrastructure and
30 natural gas utility infrastructure are needed to support the development of
31 sites designated as available for economic development projects, as these
32 sites are critical to this state's economic development efforts;

33 (4) While Arkansas's electric utilities have pursued beneficial
34 resource acquisition opportunities for their customers, most will need to
35 construct new electric generating facilities in the near future;

36 (5) Further strategic investments in electric utility

1 infrastructure are needed to support the license extension for existing
2 nuclear generation resources and ensure that electric utilities maintain
3 adequate dispatchable generation resources to support reliable service for
4 their customers;

5 (6) Supporting the continued evaluation of modular reactors and
6 advanced nuclear technologies to identify opportunities to pursue strategic
7 investments in those advanced nuclear technologies if it is in the public
8 interest in considering whether or not those advanced nuclear technologies
9 become technically feasible, commercially viable, and financially viable or
10 otherwise beneficial to customers in Arkansas;

11 (7) Economic development projects and the continued provision of
12 reliable electric utility service and reliable natural gas utility service
13 are essential to the future of Arkansas;

14 (8) Failure to act now will result in the state's missing
15 transformational opportunities for economic development, including new
16 business opportunities as well as the expansion of existing businesses that
17 may not be available again for many years to come;

18 (9) These prospective and existing businesses are prepared to
19 invest in electric utility infrastructure and natural gas utility
20 infrastructure in this state and will provide employment for Arkansas
21 residents that will benefit the public interest;

22 (10) These prospective strategic investments and the resulting
23 employment and workforce development opportunities for this state will
24 produce investment, economic growth and activity, and new state and local tax
25 revenue that will strengthen communities throughout this state and will
26 enhance the state's overall economic vitality and well-being;

27 (11) Existing regulatory frameworks for electric utilities and
28 natural gas utilities are inadequate and were not designed to enable the
29 electric utilities and the natural gas utilities to respond timely and make
30 the required level of strategic investments in electric utility or natural
31 gas utility infrastructure and the associated expenses, in addition to
32 maintaining the financial viability necessary to support strategic
33 investments requiring new infrastructure to serve the residents of Arkansas;

34 (12) Regulatory reform is required to keep pace with the
35 evolving industry and help ensure that electric utilities and natural gas
36 utilities are financially sound and able to make the strategic investments to

1 continue providing customers safe, reliable, affordable, and sustainable
2 electric utility service and natural gas utility service;

3 (13) To support economic development in Arkansas, nothing herein
4 is intended to develop rates that would unreasonably shift costs from a
5 customer or customer class to other customers in a manner that would result
6 in rates that are not just and reasonable, not consistent with applicable
7 law, or not in the public interest;

8 (14) It is the policy of this state to maintain adequate
9 capacity of available, reliable, dispatchable, affordable, and resilient
10 electric generation to provide for the existing and reasonably projected
11 future energy consumption needs of all consumers of electricity in Arkansas;

12 (15) Arkansas can support a multitude of potential electric
13 generating resources and fuel supply resources so as to be the national
14 leader in the production of reliable and affordable energy in all forms that
15 make sense and are technically feasible, commercially viable, and financially
16 viable or otherwise beneficial to customers in Arkansas and the Arkansas
17 Public Service Commission shall ensure that generation resources will
18 maintain or improve the affordability, adequacy, and reliability of the
19 electric grid in Arkansas;

20 (16) Strategic investments will support the expansion of
21 Arkansas's natural gas production capacity that will lead to economic growth
22 and employment opportunities in that business sector and will support the
23 continued development and use of Arkansas's natural resources; and

24 (17) Strategic investments will enhance the capacity,
25 reliability, and resiliency of Arkansas's electric and natural gas utility
26 infrastructure, which will support the reliability and resiliency of
27 Arkansas's overall utility infrastructure and reliable electric and natural
28 gas utility service during extreme temperatures and other weather conditions
29 and during other periods of high demand and usage.

30
31 23-4-1303. Definitions.

32 As used in this subchapter:

33 (1)(A) "Construction work in progress" means:

34 (i) Materials costs;

35 (ii) Labor costs;

36 (iii) Labor costs adders;

1 (iv) Costs associated with third-party vendors and
2 consultants;

3 (v) Costs associated with procurement of real
4 property rights;

5 (vi) Costs associated with securing all necessary
6 approvals;

7 (vii) Taxes;

8 (viii) Tax gross-up charges;

9 (ix) Capital suspense charges; and

10 (x) Overheads for any strategic investments that are
11 not yet complete or in service.

12 (B) "Construction work in progress" includes costs that
13 are:

14 (i) Recorded under the requirements of the uniform
15 system of accounts adopted by the Arkansas Public Service Commission by rule
16 and any applicable accounting guidance issued by the Federal Energy
17 Regulatory Commission that are adopted by the Arkansas Public Service
18 Commission by rule; and

19 (ii) In conformance with generally accepted
20 accounting principles;

21 (2) "Electric distribution cooperative" means a rural electric
22 cooperative that sells electricity at retail and is a member of an electric
23 generation and transmission cooperative;

24 (3) "Electric generation and transmission cooperative" means a
25 rural electric cooperative formed under the Electric Cooperative Corporation
26 Act, § 23-18-301 et seq., that:

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

28 (B) Exclusively sells electricity at wholesale;

29 (4) "Investor-owned electric utility" means a public utility
30 that is engaged in generating, transmitting, delivering, or furnishing
31 electricity to or for the public for compensation and that is owned by
32 investors and is not a cooperative;

33 (5) "Investor-owned natural gas utility" means a public utility
34 that is engaged in the production, transport, delivery, or furnishing of
35 natural gas to or for the public for compensation and that is owned by
36 investors and is not a cooperative;

1 (6) "Major utility facility" means the same as defined in § 23-
2 18-503;

3 (7) "Public utility" means the same as defined in § 23-1-101;

4 (8) "Rider" means a rate schedule approved by the Arkansas
5 Public Service Commission to recover one (1) or more strategic investments
6 and the recovery costs that are not included in other rates or rate schedules
7 approved by the Arkansas Public Service Commission;

8 (9) "Rider test period" means a historical test period under §
9 23-4-406 which shall include adjustments identified by the electric utility
10 or the natural gas utility to a historical test period to reflect the effects
11 on an annualized basis of a change in circumstances which may occur within
12 twelve (12) months after the end of the historical test year where the
13 changes are reasonably known and measurable;

14 (10)(A) "Strategic investments" means investments, either
15 construction or purchase, and associated operating expenses made by a
16 electric public utility or natural gas public utility, and approved by the
17 Arkansas Public Service Commission under § 23-3-201 et seq., the Utility
18 Facility Environmental and Economic Protection Act, § 23-18-501 et seq., or a
19 notice under § 23-18-104 or as otherwise stated in subdivision (10)(B) of
20 this section, to:

21 (i) Support growth and economic development in this
22 state, including supporting the development of sites designated as available
23 for economic development;

24 (ii) Maintain and improve the provision of reliable
25 electric utility service and natural gas utility service to new and existing
26 customers in this state;

27 (iii) Support the license extension for existing
28 nuclear generation resources; and

29 (iv) Ensure that electric utilities maintain
30 adequate dispatchable generation resources to support reliable service for
31 their customers that is consistent with the resource adequacy requirements
32 established by the applicable load balancing authority.

33 (B) "Strategic investments" includes without limitation
34 investments and associated operating expenses associated with:

35 (i) A new electric generating facility, an
36 associated transportation and storage facility for fuel, and other facilities

1 designed for or capable of operation at a capacity of one hundred megawatts
2 (100 MW) or more for a single facility;

3 (ii) An energy storage facility designed for or
4 capable of operating at a capacity of fifty megawatts (50 MW) or more for a
5 single facility or a combination of energy storage facilities and an electric
6 generating facility designed for or capable of operation at a combined
7 capacity of one hundred megawatts (100 MW) or more for a single facility to
8 provide service to new and existing customers located in Arkansas;

9 (iii) Upgrades, expansions, or fuel conversions of
10 existing electric generating facilities and associated transportation and
11 storage facilities for fuel and other facilities, energy storage facilities,
12 or any combination thereof to sustain or increase capacity and, therefore,
13 improve reliability, to provide service to new and existing customers in
14 Arkansas;

15 (iv) New electric transmission facilities, including
16 substations with a design voltage of more than one hundred kilovolts (100 kV)
17 or more to provide service to new and existing customers located in Arkansas;

18 (v) Upgrades or expansions of existing electric
19 transmission facilities, including substations with a design voltage of more
20 than one hundred kilovolts (100 kV) or more to increase capacity, therefore,
21 improve reliability to provide service to new and existing customers located
22 in Arkansas;

23 (vi) New natural gas transmission lines or high
24 pressure distribution lines with a maximum allowable operating pressure of
25 one hundred twenty-five pounds per square inch gauge (125 PSIG) or greater
26 and natural gas storage facilities;

27 (vii) Upgrades or expansions of existing natural gas
28 transmission lines, high pressure distribution lines with a maximum allowable
29 operating pressure of one hundred twenty-five pounds per square inch gauge
30 (125 PSIG) or greater and natural gas storage facilities; and

31 (viii) Feasibility studies of strategic investments
32 and advanced energy technologies, as defined in § 23-4-1308, including site
33 studies and due diligence to determine construction estimates.

34 (C)(i) A renewable resource strategic investment shall be
35 eligible for recovery through the rider under this section, if the Arkansas
36 Public Service Commission finds in a proceeding under § 23-3-201 et seq., §

1 23-18-104, the Utility Facility Environmental and Economic Protection Act, §
2 23-18-501 et seq., or any other proceeding for approval of a renewable
3 resource strategic investment based on substantial evidence, that a renewable
4 resource strategic investment results in benefits to customers and the
5 electric utility would continue to have adequate dispatchable resources to
6 provide reliable service to its customers consistent with the resource
7 adequacy requirements of the load balancing authority with the addition of
8 the renewable strategic investment.

9 (ii) As used in subdivision (10)(C)(i) of this
10 section, "benefits" shall include without limitation:

11 (a) The cost of the renewable strategic
12 investment is reasonable and prudently incurred;

13 (b) The renewable resource strategic
14 investment is necessary to supplement or replace the electric utility's
15 existing generation resources;

16 (c) The renewable resource strategic
17 investment provides energy and capacity benefits;

18 (d) The renewable resource provides generation
19 resource mix diversification and fuel source mix benefits and risk mitigation
20 benefits;

21 (e) The renewable resource strategic
22 investment supports efforts to attract or retain economic development
23 opportunities for this state; or

24 (f) A customer or customers contract to pay
25 all or a portion of the cost of the strategic investment as a resource
26 through a special rate contract, a renewable rate schedule, a contribution in
27 aid of construction, or other form of payment.

28 (D) Wind resources located in Arkansas are not eligible
29 for recovery through a rider under this subchapter; and

30 (11) "Times interest earned ratio" means earnings before
31 interest and taxes divided by the total interest payable on bonds and other
32 debt.

33
34 23-4-1304. Authorization to recover strategic investments through
35 rider – Investor-owned electric utility and investor-owned natural gas
36 utility.

1 (a) An investor-owned electric utility or an investor-owned natural
2 gas utility may use a rider to recover strategic investments that are not
3 otherwise recoverable through rates that were previously approved by the
4 Arkansas Public Service Commission or charged by the investor-owned electric
5 utility or the investor-owned natural gas utility after:

6 (1) A commission order approving an application under § 23-3-201
7 et seq. or the Utility Facility Environmental and Economic Protection Act, §
8 23-18-501 et seq., or a notice under § 23-18-104; or

9 (2) A commission order approving any other application related
10 to the *siting* or prudence of the decision to invest in the new strategic
11 investments.

12 (b)(1) An investor-owned electric utility or an investor-owned natural
13 gas utility may elect to file with the commission a rider to recover
14 strategic investments that are not included in rates.

15 (2) The investor-owned electric utility or the investor-owned
16 natural gas utility shall provide notice to the Attorney General of the
17 filing of the rider by the investor-owned electric utility or the investor-
18 owned natural gas utility on the date the investor-owned electric utility or
19 the investor-owned natural gas utility files the rider with the commission.

20 (c)(1) An investor-owned electric utility or an investor-owned natural
21 gas utility may select the date of the first annual filing update, with all
22 subsequent updates to be filed on or by the same day annually as the first
23 filing update.

24 (2) An investor-owned electric utility or an investor-owned
25 natural gas utility shall provide notice to the Attorney General of the
26 filing of the rider on the date the investor-owned electric utility or the
27 investor-owned natural gas utility files each annual update to the rider with
28 the commission.

29 (d) For a rider under this subchapter, an investor-owned electric
30 utility or an investor-owned natural gas utility shall use a rider test
31 period.

32 (e)(1) Upon receipt of an investor-owned electric utility's or an
33 investor-owned natural gas utility's filing to implement the rider rate
34 schedule and each annual update under this subchapter, the commission shall
35 issue an order approving the rider rate schedule and each annual update to
36 recover strategic investments under this subchapter if the commission

1 determines that the investor-owned electric utility's or the investor-owned
2 natural gas utility's application complies with the provisions of this
3 section.

4 (2)(A) Unless the commission determines that approving the
5 investor-owned electric utility's or the investor-owned natural gas utility's
6 application for the rider and each annual update does not comply with this
7 subchapter, the commission shall enter an order within ninety (90) calendar
8 days following the date of the investor-owned electric utility's or the
9 investor-owned natural gas utility's filing.

10 (B)(i) If the commission determines that approving an
11 application for approval of a rider rate schedule or annual update under this
12 subchapter does not comply with this section, the commission shall enter an
13 order denying the application.

14 (ii) In the order entered by the commission under
15 subdivision (e)(2)(B)(i) of this section, the commission shall discuss:

16 (a) The basis for the commission's findings;
17 and

18 (b) Any evidence or other information
19 submitted by the investor-owned electric utility or the investor-owned
20 natural gas utility as part of its application that the commission deems to
21 be insufficient.

22 (C) Each annual update shall include, for the initial
23 rider test year, the construction work in progress costs that will ultimately
24 be capitalized on which the utility will earn a return, amounts that would
25 otherwise be recorded as allowance for funds used during construction, and
26 any expenses associated with the construction work in progress that will not
27 be capitalized.

28 (D) The commission shall verify the amounts included in
29 each annual update reflect the amounts authorized for recovery under the
30 Generating Arkansas Jobs Act of 2025, § 23-4-1301 et seq.

31 (E) The commission shall complete its review of each
32 annual update filing and issue its order within sixty (60) days following the
33 date of the annual update filing.

34 (F)(i) If the investor-owned electric utility or the
35 investor-owned natural gas utility submits an amended filing remedying the
36 areas of noncompliance identified by the commission in its order, the

1 commission shall enter an order approving the application within ten (10)
2 calendar days following the date of the amended filing unless the commission
3 finds that the filing does not comply with the provisions of this subchapter.

4 (ii) If the commission finds that the amended filing
5 does not remedy the areas of noncompliance, the commission shall enter an
6 order denying the application.

7 (iii) In the order issued under subdivision
8 (e)(2)(F)(ii) of this section, the commission shall discuss:

9 (a) The basis for the commission's findings;
10 and

11 (b) Any evidence or other information
12 submitted by the investor-owned electric utility or the investor-owned
13 natural gas utility as part of its notice or application that the commission
14 deems to be insufficient.

15 (G) The process outlined in subdivision (e)(2)(B) and (F)
16 of this section may continue until the commission finds that:

17 (i) The investor-owned electric utility's or the
18 investor-owned natural gas utility's application complies with this
19 subchapter; or

20 (ii) The investor-owned electric utility or the
21 investor-owned natural gas utility withdraws its application or appeals the
22 commission's decision under § 23-2-423.

23 (H) If the commission fails to issue its order within the
24 timeframes stated in this section, the investor-owned electric utility's
25 filing or the investor-owned natural gas utility's filing shall become
26 effective by operation of law subject to completion of the commission's
27 review under this subchapter.

28 (f)(1) At the election of the investor-owned electric utility or the
29 investor-owned natural gas utility, strategic investments shall be recovered
30 through the rider, separate from the investor-owned electric utility's or the
31 investor-owned natural gas utility's formula rate plan implemented under the
32 Formula Rate Review Act, § 23-4-1201 et seq., any other rider, or otherwise
33 as part of the investor-owned electric utility's or the investor-owned
34 natural gas utility's rates approved by the commission.

35 (2) If elected by an investor-owned electric utility or an
36 investor-owned natural gas utility, the rider shall remain in effect under

1 this subchapter until the investor-owned electric utility or the investor-
2 owned natural gas utility decides to withdraw the rider with respect to
3 future cost recovery for strategic investments to be made after the date of
4 the withdrawal.

5 (g) For the purposes of calculating rates to recover the costs of
6 strategic investments, including rates implemented through an individual
7 customer contract, the commission shall ensure that the rates charged to
8 customers recover the costs of strategic investments in a manner that is
9 consistent with applicable law and in the public interest.

10 (h)(1) An amount collected through the rider under this subchapter
11 shall be collected subject to refunds pending the completion of the
12 commission's review under this subchapter.

13 (2) At any time during the process, if the commission finds that
14 any costs were not prudently incurred, the commission shall order that the
15 costs that were not prudently incurred be refunded to customers through bill
16 credits.

17 (i) The rider elected by an investor-owned electric utility or an
18 investor-owned natural gas utility under this subchapter to recover strategic
19 investments is a revenue requirement rider and shall provide return on
20 construction work in progress plus operating expenses during construction and
21 return on rate base plus operating expenses once complete and in service.

22 (j)(1) An investor-owned electric utility or an investor-owned natural
23 gas utility shall not accrue an allowance for funds used during construction
24 for strategic investments with costs recovered through the rider.

25 (2) Instead, the commission shall authorize an investor-owned
26 electric utility or an investor-owned natural gas utility to earn a return
27 through the rider under this subchapter on any construction work in progress.

28 (k) The commission shall authorize an investor-owned electric utility
29 or an investor-owned natural gas utility to recover through the rider filed
30 under this subchapter any expenses associated with the construction of
31 strategic investments that will not be capitalized.

32 (l) In calculating construction work in progress, including actual
33 costs and any projections, the investor-owned electric utility or the
34 investor-owned natural gas utility shall base all amounts on year-end
35 information not subject to averaging beginning-of-year or end-of-year
36 balances.

1 (m)(1)(A) During the construction of strategic investments included in
2 the rider, an investor-owned electric utility or an investor-owned natural
3 gas utility shall include in the capital structure only short-term debt,
4 long-term debt, and equity.

5 (B) The investor-owned electric utility or the investor-
6 owned natural gas utility shall base the balances of those items under
7 subdivision (m)(1)(A) of this section on the investor-owned electric
8 utility's or the investor-owned natural gas utility's actual capital
9 structure with a minimum equity percentage of thirty percent (30%) and a
10 maximum equity percentage of fifty percent (50%).

11 (C) During the construction of strategic investments, the
12 commission shall not require an investor-owned electric utility or an
13 investor-owned natural gas utility that is electing to utilize a rider under
14 this subchapter to include in the capital structure of the rider other items,
15 including current, accrued, or other liabilities or accumulated deferred
16 income taxes.

17 (D) For the purposes of the rider, the cost of debt used
18 in calculating the cost of capital shall be the cost of short-term debt and
19 the cost of long-term debt approved in the investor-owned electric utility's
20 or the investor-owned natural gas utility's most recent general rate case
21 proceeding or formula rate plan annual filing.

22 (2) For any strategic investment included in the rider under
23 this section that is complete and in service, the investor-owned electric
24 utility or the investor-owned natural gas utility shall use the capital
25 structure and overall rate of return that was approved in the investor-owned
26 electric utility's or the investor-owned natural gas utility's most recent
27 general rate case proceeding or annual formula rate plan filing.

28 (n) For the purpose of the rider, the return on equity used in
29 calculating the cost of capital shall be set at the return on equity approved
30 in the investor-owned electric utility's or the investor-owned natural gas
31 utility's most recent general rate case proceeding.

32 (o)(1) On the strategic investments' being complete and in service,
33 the commission shall authorize the investor-owned electric utility or the
34 investor-owned natural gas utility to earn a fair and reasonable return
35 through the rider on any capitalized costs for the strategic investments.

36 (2) Once the strategic investments go into service, the

1 commission shall authorize the investor-owned electric utility or the
2 investor-owned natural gas utility to recover through the rider any on-going
3 expenses associated with the strategic investments.

4 (3) In the investor-owned electric utility's or the investor-
5 owned natural gas utility's next general rate case proceeding, the commission
6 shall allow the investor-owned electric utility or the investor-owned natural
7 gas utility to include any capitalized amounts and associated expenses for
8 completed strategic investments in its base rates.

9 (4)(A) In the investor-owned electric utility's or the investor-
10 owned natural gas utility's next general rate case proceeding, the investor-
11 owned electric utility or the investor-owned natural gas utility shall move
12 any amounts for any completed strategic investments from the rider into base
13 rates.

14 (B) The investor-owned electric utility or the investor-
15 owned natural gas utility shall continue to recover through the rider
16 implemented under this subchapter the costs and expenses associated with any
17 strategic investments that are not complete and in service.

18 (p) The revenues from the rider shall be included in calculating the
19 maximum amount of revenue increase or decrease under § 23-4-1207(d) for any
20 formula rate plan implemented under the Formula Rate Review Act, § 23-4-1201
21 et seq., but shall otherwise be excluded from the revenues included in a
22 formula rate plan under the Formula Rate Review Act, § 23-4-1201 et seq., for
23 an investor-owned electric utility or an investor-owned natural gas utility.

24 (q)(1) For any excess accumulated deferred income tax associated with
25 strategic investments, the commission shall:

26 (A) Authorize the investor-owned electric utility or
27 investor-owned natural gas utility to apply the excess deferred income taxes
28 to offset the investor-owned electric utility's or investor-owned natural gas
29 utility's rate base used in calculating its rates; or

30 (B) Apply the excess deferred income taxes as a credit to
31 customer bills.

32 (2) The commission shall determine which form and the timing of
33 applying the accumulated deferred income taxes under subsection (q) of this
34 section is in the public interest.

35 (r) The commission shall authorize the investor-owned electric utility
36 or the investor-owned natural gas utility to monetize or apply any tax

1 credits or other tax incentives, including without limitation investment tax
2 credits and production tax credits, where possible to reduce the cost of
3 constructing or acquiring any strategic investments to benefit customers of
4 an investor-owned electric utility or an investor-owned natural gas utility.

5 (s)(1) The investor-owned electric utility or the investor-owned
6 natural gas utility shall seek federal funds and loan programs to reduce the
7 cost of constructing, acquiring, and financing strategic investments if
8 possible, appropriate, and available to reduce the cost of constructing or
9 acquiring any strategic investments.

10 (2) If an investor-owned electric utility or an investor-owned
11 natural gas utility requests and receives federal funding to support
12 constructing or acquiring strategic investments, the applicable amount of
13 federal funding shall be deducted from the value of the strategic investments
14 that are capitalized and recoverable through rates charged to customers of an
15 investor-owned electric utility or an investor-owned natural gas utility.

16 (t)(1) If an investor-owned electric utility or an investor-owned
17 natural gas utility, with rates regulated under the Formula Rate Review Act,
18 § 23-4-1201 et seq., has a return on equity above the return on the investor-
19 owned electric utility's or the investor-owned natural gas utility's most
20 recent general rate case proceeding, plus five-tenths percent (0.5%), and
21 would otherwise be required to provide credits to a customer's bill, the
22 investor-owned electric utility or the investor-owned natural gas utility
23 shall not be required to adjust rates and provide credits to customers that
24 may otherwise be required under § 23-4-1207(b) if the investor-owned electric
25 utility or the investor-owned natural gas utility has strategic investments
26 under construction in an amount equal to or greater than the amount above the
27 return on equity approved in the investor-owned electric utility's or the
28 investor-owned natural gas utility's most recent general rate case
29 proceeding, plus five-tenths percent (0.5%).

30 (2) For an investor-owned electric utility or an investor-owned
31 natural gas utility, with rates regulated under the Formula Rate Review Act,
32 § 23-4-1201 et seq., the commission shall not require a reduction of rates to
33 the investor-owned electric utility's or the investor-owned natural gas
34 utility's authorized rate of return, or reduce the investor-owned electric
35 utility's or the investor-owned natural gas utility's target rate of return
36 under § 23-4-1207(b) for any formula rate plan mechanism under the Formula

1 Rate Review Act, § 23-4-1201 et seq., if an investor-owned electric utility
2 or an investor-owned natural gas utility has strategic investments under
3 construction in an amount equal to or greater than the level of earnings
4 above the investor-owned electric utility's or the investor-owned natural gas
5 utility's authorized rate of return or the investor-owned electric utility's
6 or the investor-owned natural gas utility's target rate of return under § 23-
7 4-1207(b) for any formula rate plan mechanism implemented under the Formula
8 Rate Review Act, § 23-4-1201 et seq.

9 (3)(A) The investor-owned electric utility or the investor-owned
10 natural gas utility shall first apply any amounts identified in subdivisions
11 (t)(1) and (2) of this section to strategic investments under construction.

12 (B)(i) The commission may authorize the investor-owned
13 electric utility or the investor-owned natural gas utility to record any
14 amounts identified in subdivisions (t)(1) and (2) of this section and
15 designate those amounts to offset the cost of approved strategic investments
16 not yet under construction if the commission determines that doing so is in
17 the public interest.

18 (ii) If the commission authorizes recording any
19 amounts for the projects described in subdivision (t)(3)(B)(i) of this
20 section, the investor-owned electric utility or the investor-owned natural
21 gas utility shall deduct interest at a rate equal to the cost of short-term
22 debt approved in the investor-owned electric utility's or the investor-owned
23 natural gas utility's last general rate case proceeding from any amounts
24 recorded until those amounts are applied to offset the cost of strategic
25 investments.

26 (C) The investor-owned electric utility or the investor-
27 owned natural gas utility shall provide credits to customers equal to any
28 remaining amounts identified in subdivisions (t)(1) and (2) of this section
29 as required under § 23-4-1207(b), plus interest at a rate equal to the cost
30 of short-term debt approved in the investor-owned electric utility's or the
31 investor-owned natural gas utility's most recent general rate case proceeding
32 or annual formula rate plan filing.

33 (u) Except as otherwise provided in this subchapter, this section does
34 not alter the powers and authority of the commission.

35 (v) A commission review of the expenditures associated with strategic
36 investments included in the rider, including evaluating whether or not any

1 costs or expenses are reasonable and prudently incurred, shall be completed
2 within twelve (12) calendar months after the date upon which the investor-
3 owned electric utility or the investor-owned natural gas utility provides
4 notice that the strategic investments are complete and in service.

5 (w) An expenditure associated with strategic investments for which an
6 application for approval is pending before the commission as of the effective
7 date of this subchapter shall be eligible for recovery through the rider
8 under this subchapter if:

9 (1) The costs are not otherwise included in rates approved by
10 the commission before the effective date of this subchapter;

11 (2) The investor-owned electric utility or the investor-owned
12 natural gas utility has an application pending that was filed before the
13 effective date of this subchapter for approval:

14 (A) To construct a power generation facility outside of
15 the state under § 23-18-104;

16 (B) To obtain a certificate of environmental compatibility
17 and public need under the Utility Facility Environmental and Economic
18 Protection Act, § 23-18-501 et seq.;

19 (C) To obtain a certificate of public convenience and
20 necessity under § 23-3-201 et seq.; or

21 (D) For any other application related to the *siting* or
22 prudence of the decision to invest in the new strategic investments; and

23 (3) The commission enters an order after January 1, 2025,
24 approving an application that was filed before the effective date of this
25 subchapter for approval:

26 (A) To construct a power generation facility outside of
27 the state under § 23-18-104;

28 (B) To obtain a certificate of environmental compatibility
29 and public need under the Utility Facility Environmental and Economic
30 Protection Act, § 23-18-501 et seq.;

31 (C) To obtain a certificate of public convenience and
32 necessity under § 23-3-201 et seq.; or

33 (D) For any other application related to the *siting* or
34 prudence of the decision to invest in the new strategic investments.

35 (x)(1) If a customer pays or multiple customers pay for a portion of
36 any strategic investments through a contribution in aid of construction or

1 through other form of payment, the strategic investments shall continue to be
2 considered strategic investments and classified as part of the investor-owned
3 electric utility's or the investor-owned natural gas utility's retail assets
4 and recoverable through the investor-owned electric utility's or the
5 investor-owned natural gas utility's retail rates, either in the base rates
6 of the investor-owned electric utility or the investor-owned natural gas
7 utility, through a rider under this subchapter, or rates otherwise approved
8 by the commission.

9 (2)(A) A payment by a customer or customers for any a portion of
10 any strategic investments through a contribution in aid of construction shall
11 be deducted from the cost of the strategic investments capitalized and
12 recovered through rates.

13 (B) A payment by a customer or customers through any other
14 forms of payment shall be recorded for ratemaking purposes, when the
15 strategic investments are first included in rates and shall be recognized as
16 payment over a period not to exceed the life of the strategic investments, in
17 a manner that provides comparable benefits for other customers over the life
18 of the strategic investments.

19
20 23-4-1305. Procedure to recover strategic investments through riders –
21 Investor-owned electric utility and investor-owned natural gas utility.

22 (a) An investor-owned electric utility or an investor-owned natural
23 gas utility electing to file with the Arkansas Public Service Commission a
24 rider to recover strategic investments that are not otherwise included in
25 rates previously approved by the commission, may file an application to
26 implement the rider any time within twelve (12) months after:

27 (1) The commission enters an order approving an application
28 under § 23-3-201 et seq. or the Utility Facility Environmental and Economic
29 Protection Act, § 23-18-501 et seq., or a notice under § 23-18-104; or

30 (2) Any other application related to the siting or prudence of
31 the decision to invest in strategic investments.

32 (b) An investor-owned electric utility or an investor-owned natural
33 gas utility shall file:

34 (1) An annual update to the rider to reflect the annual
35 expenditures;

36 (2) An update to any projections included in the rider to

1 recover strategic investments; and

2 (3) An investor-owned electric utility's or an investor-owned
3 natural gas utility's recovery through the rider shall be limited to the
4 amounts identified by the investor-owned electric utility or an investor-
5 owned natural gas utility in the proceeding in which the commission approved
6 the strategic investments unless a greater amount is subsequently authorized
7 by the commission.

8 (c) The annual update required under subsection (b) of this section
9 shall include the information stated in subsections (a)-(b) of this section
10 for strategic investments following subsequent commission orders approving
11 strategic investments.

12 (d) An investor-owned electric utility or an investor-owned natural
13 gas utility shall immediately notify the commission of any significant delays
14 or material changes in the construction schedule to include any strategic
15 investments that are abandoned before completion or for which construction
16 has been indefinitely suspended or material changes in costs of any strategic
17 investments recovered through the rider under this subsection (d).

18 (e)(1) An investor-owned electric utility or an investor-owned natural
19 gas utility shall remove the cost of any strategic investments that are
20 abandoned before completion or for which construction has been indefinitely
21 suspended from the rider unless the commission determines, based on
22 substantial evidence provided by the investor-owned electric utility or the
23 investor-owned natural gas utility, that:

24 (A) The costs were reasonable and prudently incurred at
25 the time the costs were incurred;

26 (B) Continued recovery through the rider remains
27 reasonable;

28 (C) The circumstance of the abandonment before completion
29 or indefinite construction suspension is reasonable; and

30 (D) Recovery of those costs is in the public interest.

31 (2) Upon removal of any costs for strategic investments that are
32 abandoned before completion or for which construction has been indefinitely
33 suspended, the investor-owned electric utility or the investor-owned natural
34 gas utility may seek recovery of those costs through rates if the commission
35 determines, based on substantial evidence provided by the investor-owned
36 electric utility or the investor-owned natural gas utility, that:

1 (A) The costs were reasonable and prudently incurred at
2 the time those costs were incurred;

3 (B) The circumstance of the abandonment before completion
4 or indefinite construction suspension is reasonable; and

5 (C) Recovery of those costs is in the public interest.

6 (3)(A) An investor-owned electric utility or an investor-owned
7 natural gas utility may request recovery of any costs for strategic
8 investments that are abandoned before completion or for which construction
9 has been indefinitely suspended if the costs for strategic investments that
10 are abandoned before completion or for which construction has been
11 indefinitely suspended are removed from recovery through the rider in a
12 separate proceeding.

13 (B) Upon receipt of a request for recovery of costs under
14 subdivision (e)(3)(A) of this section, the commission shall determine:

15 (i) Whether recovery of those costs is in the public
16 interest; and

17 (ii) The form and timing of recovery through rates
18 charged to customers.

19 (f)(1)(A) Except as provided in subdivision (f)(2)(D)(i) of this
20 section, an investor-owned electric utility's or an investor-owned natural
21 gas utility's total amount of revenue increase from an annual update to the
22 rider under this subchapter shall not result in the investor-owned electric
23 utility's or the investor-owned natural gas utility's rates exceeding a level
24 ten percent (10%) below the national average for all sectors.

25 (B) For this comparison, the rates under subdivision
26 (f)(1)(A) of this section shall be calculated using:

27 (i) The same method as that used by the United
28 States Energy Information Administration and published in its most recent
29 edition of the Electric Power Annual report for electric utilities, as
30 adopted by the commission by rule, or the Natural Gas Annual report for
31 natural gas utilities, as adopted by the commission by rule; and

32 (ii) Data from the same calendar year as the United
33 States Energy Information Administration's publication to which the investor-
34 owned electric utility's or the investor-owned natural gas utility's revenue
35 increase is compared.

36 (C) If the commission finds that the investor-owned

1 electric utility or the investor-owned natural gas utility provides
2 substantial evidence to the commission demonstrating that its rates will
3 remain capable of attracting or retaining economic development opportunities
4 for the state even if the rates exceed ten percent (10%) below national
5 average and that doing so is in the public interest, then the commission
6 shall approve each revenue increase.

7 (2)(A) If the commission approves a revenue increase for an
8 investor-owned electric utility or an investor-owned natural gas utility from
9 an annual update to the rider under this subchapter that results in the
10 investor-owned electric utility's or the investor-owned natural gas utility's
11 rates exceeding a level ten percent (10%) below the national average, the
12 commission shall submit a letter to the cochair of the Legislative Council
13 notifying the General Assembly that the commission has approved a revenue
14 increase for an investor-owned electric utility or investor-owned natural gas
15 utility from an annual update to the rider under this subchapter that has
16 resulted in an investor-owned electric utility's or an investor-owned natural
17 gas utility's total rates inclusive of all riders is exceeding a level ten
18 percent (10%) below the national average.

19 (B) Unless the commission approves an increase in the
20 total amount of revenue increase from an annual update to the rider under
21 this subchapter that exceeds a level ten percent (10%) below the national
22 average for all sectors under subdivision (f)(2)(A) of this section, the
23 investor-owned electric utility or the investor-owned natural gas utility
24 shall adjust its annual update to the rider under subsections (a)-(d) of this
25 section to include only a revenue increase that results in rates that are ten
26 percent (10%) below the national average.

27 (C) The commission shall verify that an annual update to
28 the rider under subsections (a)-(d) of this section does not include a
29 revenue increase that results in rates exceeding a level ten percent (10%)
30 below the national average unless it authorizes a greater amount under
31 subdivision (f)(1)(A) of this section.

32 (D)(i) If an investor-owned natural gas utility's rates
33 are above the national average for all sectors calculated using the same
34 method as that used by the United States Energy Information Administration
35 and published in its most recent edition of the Natural Gas Annual report for
36 natural gas utilities, as adopted by the commission by rule, and calculated

1 using data from the same calendar year as the United States Energy
2 Information Administration publication to which the investor-owned natural
3 gas utility's revenue increase is compared, the total amount of revenue
4 increase or decrease for an investor-owned natural gas utility from an annual
5 update to the rider under this subchapter shall not exceed four percent (4%)
6 of each rate class's total revenue.

7 (ii) If a conflict exists between subdivision (f)(1)
8 of this section and subdivision (f)(2)(D)(i) of this section, subdivision
9 (f)(2)(D)(i) of this section shall control.

10 (E) The commission shall submit an annual report to the
11 Legislative Council describing:

12 (i) The strategic investments included in the rider
13 for an investor-owned electric utility or an investor-owned natural gas
14 utility; and

15 (ii) The change in rates resulting from the
16 investor-owned electric utility's and the investor-owned natural gas
17 utility's annual update to the rider under this subchapter on the investor-
18 owned electric utility's or the investor-owned natural gas utility's rates.

19 (3) An investor-owned electric utility shall submit an annual
20 report to the commission describing its generation portfolio mix based on the
21 generation capacity mix and on the energy mix.

22 (4) The commission shall submit an annual report to the
23 Legislative Council describing the generation portfolio mix based on the
24 generation capacity mix and based on the energy mix for each investor-owned
25 electric utility.

26 (g) Once strategic investments in public utility facilities are
27 complete and in service, an investor-owned electric utility or an investor-
28 owned natural gas utility shall:

29 (1) Reconcile the actual expenditures and any projected amounts
30 included in the rider;

31 (2) Net any differences in projected amounts and actual
32 expenditures; and

33 (3) Either:

34 (A) Reduce the amounts ultimately capitalized by any over-
35 collection; or

36 (B) Recover any under-collection through subsequent years'

1 rider filings.

2 (h) For recovery through the rider, an investor-owned electric utility
3 or an investor-owned natural gas utility shall give priority to strategic
4 investments in new electric generation and transmission facilities located in
5 Arkansas, unless:

6 (1) The investor-owned electric utility or the investor-owned
7 natural gas utility demonstrates, and the commission finds that a strategic
8 investment in new electric generation and transmission facilities located
9 outside of Arkansas provides greater benefits to the investor-owned electric
10 utility's or the investor-owned natural gas utility's customers in Arkansas
11 than a comparable strategic investment in new electric generation and
12 transmission facilities located in Arkansas;

13 (2) A comparable strategic investment in new electric generation
14 or transmission facility is not available or cannot be constructed in
15 Arkansas; or

16 (3) A customer or customers contract to pay all or a portion of
17 the cost of the strategic investment in the resource through a special rate
18 contract, a renewable rate schedule, a contribution in aid of construction,
19 or other form of payment.

20

21 23-4-1306. Authorization to recover strategic investments through
22 rider – Electric distribution cooperative and electric generation and
23 transmission cooperative.

24 (a) An electric distribution cooperative or an electric generation and
25 transmission cooperative may obtain a rider to recover strategic investments
26 if not otherwise recoverable in rates previously approved by the Arkansas
27 Public Service Commission after:

28 (1) A commission order approving an application under § 23-3-201
29 et seq. or the Utility Facility Environmental and Economic Protection Act, §
30 23-18-501 et seq. or a notice under § 23-18-104; or

31 (2) A commission order approving any other application related
32 to the sighting or prudence of the decision to invest in the new strategic
33 investments.

34 (b)(1) An electric distribution cooperative or an electric generation
35 and transmission cooperative may elect to file with the commission a rider to
36 recover strategic investments that are not included in rates.

1 (2) The electric distribution cooperative or the electric
2 generation and transmission cooperative shall provide notice to the Attorney
3 General of the filing of the rider by the electric distribution cooperative
4 or the electric generation and transmission cooperative on the date the
5 electric distribution cooperative or the electric generation and transmission
6 cooperative files the rider with the commission.

7 (c) An electric distribution cooperative or an electric generation and
8 transmission cooperative may select the date of the first annual filing
9 update, with all subsequent updates to be filed on or by the same day
10 annually as the first filing update.

11 (d) For a rider under this subchapter, an electric distribution
12 cooperative or an electric generation and transmission cooperative shall use
13 a rider test period.

14 (e)(1) Upon receipt of an electric distribution cooperative's or an
15 electric generation and transmission cooperative's filing to implement the
16 rider rate schedule and each annual update under this subchapter, the
17 commission shall issue an order approving the rider rate schedule and each
18 annual update to recover strategic investments under this subchapter if the
19 commission determines that the electric distribution cooperative's or the
20 electric generation and transmission cooperative's application complies with
21 and therefore is in the public interest.

22 (2)(A) Unless the commission determines that approving the
23 electric distribution cooperative's or the electric generation and
24 transmission cooperative's application does not comply with this subchapter,
25 the commission shall enter an order within ninety (90) calendar days
26 following the date of the electric distribution cooperative's or the electric
27 generation and transmission cooperative's filing.

28 (B)(i) If the commission determines that approving an
29 application does not comply with this section, the commission shall enter an
30 order denying the application.

31 (ii) In the order entered by the commission under
32 subdivision (e)(2)(B)(i) of this section, the commission shall discuss:

33 (a) The basis for the commission's findings;
34 and

35 (b) Any evidence or other information
36 submitted by the electric distribution cooperative or the electric generation

1 and transmission cooperative as part of its application that the commission
2 deems to be insufficient.

3 (C) Each annual update shall include, for the initial
4 rider test year, the construction work in progress costs that will ultimately
5 be capitalized on which the utility will earn a return, amounts that would
6 otherwise be recorded as allowance for funds used during construction, and
7 any expenses associated with the construction work in progress that will not
8 be capitalized.

9 (D) The commission shall verify the amounts included in
10 each annual update reflect the amounts authorized for recovery under the
11 Generating Arkansas Jobs Act of 2025, § 23-4-1301 et seq.

12 (E) The commission shall complete its review of each
13 annual update filing and issue its order within sixty (60) days following the
14 date of the annual update filing.

15 (F)(i) If the electric distribution cooperative or
16 electric generation and transmission cooperative submits an amended filing
17 remedying the areas of noncompliance identified by the commission in its
18 order, the commission shall enter an order approving the application within
19 ten (10) calendar days following the date of the amended filing unless the
20 commission finds that the filing does not comply with the provisions of this
21 subchapter.

22 (ii) If the commission finds that the amended filing
23 does not remedy the areas of noncompliance, the commission shall enter an
24 order denying the application.

25 (iii) In the order entered under subdivision
26 (e)(2)(F)(ii) of this section, the commission shall discuss:

27 (a) The basis for the commission's findings;
28 and

29 (b) Any evidence or other information
30 submitted by the electric distribution cooperative or electric generation and
31 transmission cooperative with its amended filing that the commission finds
32 does not comply with specific provisions of this subchapter.

33 (G) The process outlined in subdivisions (e)(2)(B) and (F)
34 of this section may continue until the commission finds that:

35 (i) The electric distribution cooperative's or an
36 electric generation and transmission cooperative's application complies with

1 this subchapter;

2 (ii) The electric distribution cooperative or the
3 electric generation and transmission cooperative withdraws its application;
4 or

5 (iii) The electric distribution cooperative or the
6 electric generation and transmission cooperative appeals the commission's
7 decision under § 23-2-423.

8 (H) If the commission fails to issue its order within the
9 time frames stated in this subchapter, the electric distribution
10 cooperative's or the electric generation and transmission cooperative's
11 filing shall become effective by operation of law, subject to completion of
12 the commission's review under this subchapter.

13 (f)(1) At the election of the electric distribution cooperative or the
14 electric generation and transmission cooperative, strategic investments shall
15 be recovered through the rider under this subchapter, separate from any rate
16 adjustments by an electric distribution cooperative under § 23-4-901 et seq.,
17 any rate adjustments by an electric generation and transmission cooperative
18 under § 23-4-1101 et seq., any other rider, or otherwise as part of the
19 electric distribution cooperative's or the electric generation and
20 transmission cooperative's rates approved by the commission.

21 (2) If elected by an electric distribution cooperative or an
22 electric generation and transmission cooperative, the rider shall remain in
23 effect under this subchapter until the electric distribution cooperative or
24 the electric generation and transmission cooperative decides to withdraw the
25 rider with respect to future cost recovery for strategic investments to be
26 made after the date of the withdrawal.

27 (g) For the purposes of calculating rates to recover the costs of
28 strategic investments, including rates implemented through an individual
29 customer contract, the commission shall ensure that the rates charged to
30 customers recover the costs of strategic investments in a manner that is
31 consistent with applicable law and in the public interest.

32 (h)(1) An amount collected through the rider under this subchapter
33 shall be collected subject to refunds pending the completion of the
34 commission's review under this subchapter.

35 (2) At any time during the process, if the commission finds that
36 any costs were not prudently incurred, the commission shall order that the

1 costs that were not prudently incurred be refunded to customers through bill
2 credits.

3 (i) The rider elected by an electric distribution cooperative or an
4 electric generation and transmission cooperative under this subchapter to
5 recover strategic investments is a revenue requirement rider and shall
6 provide an electric distribution cooperative's or an electric generation and
7 transmission cooperative's approved times interest earned ratio, including
8 any amounts to build members equity, for the construction work in progress
9 during construction and return on rate base plus operating expenses once the
10 strategic investments are complete and in service.

11 (j)(1) An electric distribution cooperative or an electric generation
12 and transmission cooperative shall not accrue an allowance for funds used
13 during construction for strategic investments with costs recovered through
14 the rider.

15 (2) Instead the commission may allow an electric distribution
16 cooperative or an electric generation and transmission cooperative to adjust
17 its revenues through the rider under this subchapter to maintain its
18 authorized times interest earned ratio for expenditures associated with any
19 construction work in progress.

20 (k) The commission may allow an electric distribution cooperative or
21 an electric generation and transmission cooperative to recover through the
22 rider under this subchapter any expenses associated with the construction of
23 strategic investments that will not be capitalized.

24 (l) In calculating construction work in progress, including actual
25 costs and any projections, the electric distribution cooperative or the
26 electric generation and transmission cooperative shall base all amounts on
27 year-end information not subject to averaging beginning-of-year and end-of-
28 year balances.

29 (m) For the purposes of the rider under this subchapter, the electric
30 distribution cooperative's or the electric generation and transmission
31 cooperative's times interest earned ratio shall be the times interest earned
32 ratio underlying its currently approved rates, including any additional
33 amounts to build equity of the members of the electric distribution
34 cooperative or the electric generation and transmission cooperative.

35 (n)(1) On the strategic investments' being complete and in service,
36 the commission shall authorize the electric distribution cooperative or the

1 electric generation and transmission cooperative to adjust its revenues
2 through the rider under this subchapter to maintain its authorized times
3 interest earned ratio for expenditures associated with any construction work
4 in progress costs that will ultimately be capitalized or recorded as
5 allowance for funds used during construction when the strategic investments
6 are complete and in service.

7 (2) Once the strategic investments are complete and in service,
8 the commission shall authorize the electric distribution cooperative or the
9 electric generation and transmission cooperative to recover through the rider
10 under this subchapter any on-going expenses associated with the strategic
11 investments.

12 (3) In the electric distribution cooperative's or the electric
13 generation and transmission cooperative's next general rate case proceeding,
14 the commission shall allow the electric distribution cooperative or the
15 electric generation and transmission cooperative to include any capitalized
16 amounts and associated expenses for completed strategic investments in its
17 base rates.

18 (4)(A) In its next general rate case proceeding, the electric
19 distribution cooperative or the electric generation and transmission
20 cooperative shall move any amounts for any completed strategic investments
21 from the rider under this subchapter into its base rates.

22 (B) The electric distribution cooperative or the electric
23 generation and transmission cooperative shall continue to recover through the
24 rider under this subchapter the costs and expenses associated with any
25 strategic investments that are not complete and in service.

26 (o) The revenues from the rider under this subchapter shall be
27 included in calculating the allowed level of any rate increase for electric
28 distribution cooperative rate adjustments under § 23-4-901 et seq. or
29 electric generation and transmission cooperative rate adjustments under § 23-
30 4-1101 et seq. but shall otherwise be excluded from the revenues included in
31 electric distribution cooperative rate adjustments under § 23-4-901 et seq.
32 or electric generation and transmission cooperative rate adjustments under §
33 23-4-1101 et seq.

34 (p) The commission shall authorize an electric distribution
35 cooperative or an electric generation and transmission cooperative to
36 monetize or apply any tax credits or other tax incentives, including without

1 limitation investment tax credits and production tax credits, where possible
2 to reduce the cost of constructing or acquiring any strategic investments for
3 the benefit of members of the electric distribution cooperative or the
4 electric generation and transmission cooperative.

5 (q)(1) An electric distribution cooperative or an electric generation
6 and transmission cooperative shall seek federal funds and loan programs to
7 reduce the cost of constructing, acquiring, and financing strategic
8 investments if possible, appropriate, and available for the benefit of
9 members of the electric distribution cooperative or the electric generation
10 and transmission cooperative.

11 (2) If an electric distribution cooperative or an electric
12 generation and transmission cooperative requests and receives federal funding
13 to support constructing or acquiring strategic investments, the applicable
14 amount of federal funding shall be deducted from the value of the strategic
15 investments that are capitalized and recoverable through rates charged to
16 members of the electric distribution cooperative or the electric generation
17 and transmission cooperative.

18 (r) If an electric distribution cooperative or an electric generation
19 and transmission cooperative has revenues above its authorized times interest
20 earned ratio, the electric distribution cooperative or the electric
21 generation and transmission cooperative shall not be required to adjust rates
22 if the electric distribution cooperative or the electric generation and
23 transmission cooperative can demonstrate that it has plans to invest in
24 strategic investments that would qualify for recovery through the rider in
25 amounts equal to or greater than the amount above the authorized times
26 interest earned ratio.

27 (s) Except as otherwise provided in this subchapter, this section does
28 not alter the powers and authority of the commission.

29 (t) A commission review of the expenditures associated with strategic
30 investments included in the rider under this subchapter, including evaluating
31 whether or not any costs or expenses are reasonable and prudently incurred,
32 shall be completed within twelve (12) calendar months after the date upon
33 which the electric distribution cooperative or the electric generation and
34 transmission cooperative provides notice that the strategic investments are
35 complete and in service.

36 (u) An expenditure associated with strategic investments for which an

1 application for approval is pending before the commission as of the effective
2 date of this subchapter shall be eligible for recovery through the rider
3 under this subchapter if:

4 (1) The costs are not otherwise included in rates approved by
5 the commission before the effective date of this subchapter; and

6 (2) The electric distribution cooperative or the electric
7 generation and transmission cooperative has an application pending that was
8 filed before the effective date of this subchapter for approval:

9 (A) To construct a power generation facility outside of
10 the state under § 23-18-104;

11 (B) To obtain a certificate of environmental compatibility
12 and public need under the Utility Facility Environmental and Economic
13 Protection Act, § 23-18-501 et seq.;

14 (C) To obtain a certificate of public convenience and
15 necessity under § 23-3-201 et seq.; or

16 (D) For any other application related to the *siting* or
17 prudence of the decision to invest in the new strategic investments; and

18 (4) The commission enters an order after January 1, 2025,
19 approving an application that was filed before the effective date of this
20 subchapter for approval:

21 (A) To construct a power generation facility outside of
22 the state under § 23-18-104;

23 (B) To obtain a certificate of environmental compatibility
24 and public need under the Utility Facility Environmental and Economic
25 Protection Act, § 23-18-501 et seq.;

26 (C) To obtain a certificate of public convenience and
27 necessity under § 23-3-201 et seq.; or

28 (D) For any other application related to the *siting* or
29 prudence of the decision to invest in the new strategic investments.

30 (v)(1) If a customer pays or multiple customers pay for a portion of
31 any strategic investments through a contribution in aid of construction or
32 through other form of payment, the strategic investments shall continue to be
33 considered strategic investments and classified as part of the electric
34 distribution cooperative's or the electric generation and transmission
35 cooperative's retail assets and recoverable through the electric distribution
36 cooperative's or the electric generation and transmission cooperative's

1 retail rates, either in the base rates of the electric distribution
2 cooperative or the electric generation and transmission cooperative, through
3 a rider under this subchapter, or rates otherwise approved by the commission.

4 (2)(A) A payment by a customer or customers for a portion of any
5 strategic investments through a contribution in aid of construction shall be
6 deducted from the cost of the strategic investments capitalized and recovered
7 through rates.

8 (B) A payment by a customer or customers through any other
9 forms of payment shall be recorded for ratemaking purposes when the strategic
10 investments are first included in rates and shall be recognized as payment
11 over a period not to exceed the life of the strategic investments in a manner
12 that provides comparable benefits for other customers over the life of the
13 strategic investments.

14
15 23-4-1307. Procedure to recover strategic investments through rider -
16 Electric distribution cooperative and electric generation and transmission
17 cooperative.

18 (a) An electric distribution cooperative or an electric generation and
19 transmission cooperative electing to file with the Arkansas Public Service
20 Commission a rider under this subchapter to recover strategic investments not
21 otherwise included in rates previously approved by the commission, may file
22 an application to implement the rider any time within twelve (12) months
23 after:

24 (1) A commission order approving an application under § 23-3-201
25 et seq. or the Utility Facility Environmental and Economic Protection Act, §
26 23-18-501 et seq., or a notice under § 23-18-104; or

27 (2) Any other application related to the siting or prudence of
28 the decision to invest in the strategic investments.

29 (b)(1) An electric distribution cooperative or an electric generation
30 and transmission cooperative shall file an annual update to the rider under
31 this subchapter to reflect the annual expenditures plus an update to any
32 projections included in the rider under this subchapter to recover strategic
33 investments.

34 (2) An electric distribution cooperative's or an electric
35 generation and transmission cooperative's recovery through the rider shall be
36 limited to the amounts identified by the electric distribution cooperative or

1 the electric generation and transmission cooperative in the proceeding in
2 which the commission approved the strategic investments unless a greater
3 amount is subsequently authorized by the commission.

4 (c) The annual update required under subdivision (b)(1) of this
5 section shall include the amounts stated in this section for strategic
6 investments following subsequent orders from the commission approving
7 strategic investments.

8 (d) An electric distribution cooperative or an electric generation and
9 transmission cooperative shall immediately notify the commission of any
10 significant delays or material changes in the construction schedule to
11 include any strategic investments that are abandoned before completion or for
12 which construction has been indefinitely suspended or material changes in
13 costs of any strategic investments recovered through the rider in this
14 subsection (d).

15 (e)(1) An electric distribution cooperative or an electric generation
16 and transmission cooperative shall remove from the rider under this
17 subchapter the cost of any strategic investments that are abandoned before
18 completion or for which construction has been indefinitely suspended unless
19 the commission determines, based on substantial evidence provided by the
20 electric distribution cooperative or the electric generation and transmission
21 cooperative, that:

22 (A) The costs were reasonable and prudently incurred at
23 the time those costs were incurred;

24 (B) Continued recovery through the rider under this
25 subchapter remains reasonable;

26 (C) The circumstance of the abandonment before completion
27 or indefinite construction suspension is reasonable; and

28 (D) Recovery of those costs is in the public interest.

29 (2) Upon removal of any costs for strategic investments that are
30 abandoned or for which construction has been indefinitely suspended, an
31 electric distribution cooperative or an electric generation and transmission
32 cooperative may seek recovery of those costs through rates if the commission
33 determines, based on substantial evidence provided by the electric
34 distribution cooperative or the electric generation and transmission
35 cooperative, that:

36 (A) The costs were reasonable and prudently incurred at

1 the time those costs were incurred;

2 (B) The circumstance of the abandonment before completion
3 or indefinite construction suspension is reasonable; and

4 (C) Recovery of those costs is in the public interest.

5 (3)(A) An electric distribution cooperative or an electric
6 generation and transmission cooperative may request recovery of any costs for
7 strategic investments that are abandoned before completion or for which
8 construction has been indefinitely suspended and that are removed from
9 recovery through the rider under this subchapter in a separate proceeding.

10 (B) The commission shall determine:

11 (i) Whether recovery of those costs is in the public
12 interest; and

13 (ii) The form and timing of recovery through rates
14 charged to customers.

15 (f)(1)(A) An electric distribution cooperative's or an electric
16 generation and transmission cooperative's total amount of revenue increase
17 from an annual update to the rider under this subchapter shall not result in
18 the electric distribution cooperative's or the electric generation and
19 transmission cooperative's rates exceeding a level ten percent (10%) below
20 the national average for all sectors calculated using the same method as that
21 used by the United States Energy Information Administration and published in
22 its most recent editions of the Electric Power Annual report for electric
23 public utilities as adopted by the commission by rule and calculated using
24 data from the same calendar year as the United States Energy Information
25 Administration publication to which the electric distribution cooperative's
26 or the electric generation and transmission cooperative's revenue increase is
27 compared.

28 (B) If an electric distribution cooperative or an electric
29 generation and transmission cooperative provides substantial evidence
30 demonstrating that the electric distribution cooperative's or the electric
31 generation and transmission cooperative's rates will remain capable of
32 attracting or retaining economic development opportunities for the state even
33 if the rates exceed a level of ten percent (10%) below national average and
34 that doing so is in the public interest, then the commission shall approve
35 the revenue increase.

36 (2)(A) If the commission approves a revenue increase for an

1 electric distribution cooperative or an electric generation and transmission
2 cooperative from an annual update to the rider under this subchapter that
3 results in the electric distribution cooperative's or the electric generation
4 and transmission cooperative's rates exceeding a level ten percent (10%)
5 below the national average, the commission shall submit a letter to the
6 cochairs of the Legislative Council notifying the General Assembly that the
7 commission has approved a revenue increase for the electric distribution
8 cooperative or the electric generation and transmission cooperative from an
9 annual update to the rider under this subchapter that has resulted in the
10 electric distribution cooperative's or the electric generation and
11 transmission cooperative's total rates, inclusive of all riders, that exceeds
12 a level ten percent (10%) below the national average.

13 (B) Unless the commission approves an increase in the
14 total amount of revenue increase from an annual update to the rider under
15 this subchapter that exceeds a level ten percent (10%) below the national
16 average for all sectors under subdivision (g)(1)(A) of this section, the
17 electric distribution cooperative or the electric generation and transmission
18 cooperative shall adjust an annual update as required under subsections (a)-
19 (c) of this section to include only a revenue increase that results in rates
20 that are ten percent (10%) below the national average.

21 (C) The commission shall verify that an annual update to
22 the rider under subsections (a)-(c) of this section does not include a
23 revenue increase that results in rates exceeding a level ten percent (10%)
24 below the national average unless it authorizes a greater amount under
25 subdivision (f)(1)(A).

26 (g) The commission shall submit an annual report to the Legislative
27 Council describing the strategic investments included in the rider under this
28 subchapter for each electric distribution cooperative or electric generation
29 and transmission cooperative and indicating the change in rates resulting
30 from each electric distribution cooperative's or electric generation and
31 transmission cooperative's annual update to the rider under this subchapter
32 on the electric distribution cooperative's or the electric generation and
33 transmission cooperative's rates.

34 (h)(1) Each electric distribution cooperative or electric generation
35 and transmission cooperative shall submit an annual report to the commission
36 describing the electric distribution cooperative or the electric generation

1 and transmission cooperative generation portfolio mix based on the generation
2 capacity mix and based on the energy mix.

3 (2) The commission shall submit an annual report to the
4 Legislative Council describing the generation portfolio mix based on the
5 generation capacity mix and based on the energy mix for an electric
6 distribution cooperative or an electric generation and transmission
7 cooperative.

8 (i) Once strategic investments in public utility facilities that are
9 complete and in service, an electric distribution cooperative or an electric
10 generation and transmission cooperative shall:

11 (1) Reconcile the actual expenditures and any projected amounts
12 included in the rider under this subchapter to recover strategic investments;

13 (2) Net any differences in projected amounts and actual
14 expenditures; and

15 (3) Either:

16 (A) Reduce the amounts ultimately capitalized by any over-
17 collection; or

18 (B) Recover any under-collection through subsequent years'
19 rider to recover strategic investments filings.

20 (j) For recovery through the rider, an electric distribution
21 cooperative or an electric generation and transmission cooperative shall give
22 priority to strategic investments in new electric generation and transmission
23 facilities located in Arkansas, unless:

24 (1) The electric distribution cooperative or the electric
25 generation and transmission cooperative demonstrates, and the commission
26 finds that a strategic investment in new electric generation and transmission
27 facilities located outside of Arkansas provides greater benefits to the
28 electric distribution cooperative's or an electric generation and
29 transmission cooperative's customers in Arkansas than a comparable strategic
30 investment in new electric generation and transmission facilities located in
31 Arkansas;

32 (2) A comparable strategic investment in new electric generation
33 or transmission facility is not available or cannot be constructed in
34 Arkansas; or

35 (3) A customer or customers contract to pay all or a portion of
36 the cost of the strategic investment in the resource through a special rate

1 contract, a renewable rate schedule, a contribution in aid of construction,
2 or other form of payment.

3
4 23-4-1308. Recovery of advanced energy technologies and feasibility
5 studies under strategic investments rider – Definition.

6 (a)(1)(A) Upon a finding by the Arkansas Public Service Commission
7 that advanced energy technologies are in the public interest, a public
8 utility may elect to pursue strategic investments in the advanced energy
9 technologies and shall recover strategic investments in the advanced energy
10 technologies through the rider obtained under this subchapter after a
11 commission order approving an application under § 23-3-201 et seq. or § 23-
12 18-501 et seq., a notice under § 23-18-104, or any other application related
13 to the siting or prudence of the decision to invest in strategic investments.

14 (B) The commission may find that advanced energy
15 technologies are in the public interest under subdivision (a)(1)(A) of this
16 section by considering whether those advanced energy technologies are:

17 (i) Technically feasible;

18 (ii) Commercially and financially viable; and

19 (iii) Otherwise beneficial to customers in Arkansas.

20 (2)(A) A facility using advanced energy technologies that are in
21 use by a public utility in Arkansas to serve customers, including without
22 limitation nuclear generation or hydroelectric generation, pumped or run-of-
23 river, is not subject to subdivision (a)(1)(A) of this section.

24 (B) A public utility may recover the costs of feasibility
25 studies and strategic investments in advanced energy technologies that are
26 currently being used or have been used by the public utility in Arkansas to
27 serve customers through a rider obtained under this subchapter.

28 (3) As used in this section, "advanced energy technologies"
29 includes without limitation:

30 (A) Modular nuclear reactors;

31 (B) New technologies for nuclear generation technologies;

32 (C) Hydrogen-fueled generation technologies;

33 (D) Geothermal generation technologies;

34 (E) Renewable natural gas technologies;

35 (F) Hydrogen technologies;

36 (G) Biomass generation technologies;

1 (H) Hydroelectric generation technologies; and
2 (I) Emissions capture and sequestration equipment or
3 facilities associated with any new or existing major utility facility as
4 defined in the Utility Facility Environmental and Economic Protection Act, §
5 23-18-501 et seq., or other electric transmission facilities or natural gas
6 transmission facilities by a public utility that are:

7 (i) Required by state law or rule or federal
8 regulation;

9 (ii) Paid for in total or in part by a customer or
10 customers through a special rate contract, a contribution in aid of
11 construction, or other form of payment; or

12 (iii) Otherwise found by the commission to be in the
13 public interest.

14 (b) A public utility shall monitor and evaluate advancements in
15 modular nuclear reactors and other new nuclear generation technologies and
16 evaluate the resources as part of the public utility's resource planning once
17 those technologies become in the public interest considering without
18 limitation whether or not those technologies become technically feasible,
19 commercially and financially viable, and otherwise beneficial to customers in
20 Arkansas.

21 (c) For strategic investments approved by the commission, a public
22 utility may elect to, and upon election may recover strategic investments in
23 advanced energy technologies and feasibility studies through a rider under
24 this section.

25 (d)(1) Upon election by a public utility, the commission shall
26 authorize a public utility to recover the reasonable and prudently incurred
27 costs of studying the feasibility of advanced energy technologies, including
28 the cost of engineering and economic analyses to assess the technical,
29 financial, and commercial feasibility of implementing and using advanced
30 energy technologies to serve customers in Arkansas through the rider to
31 recover strategic investments under this section for feasibility studies of
32 advanced energy technologies associated with strategic investments that are
33 approved by the commission.

34 (2) For all other feasibility studies of advanced energy
35 technologies, the commission shall authorize a public utility to recover the
36 reasonable and prudently incurred cost of the feasibility study and shall

1 determine the form and timing of recovery through rates charged to customers.

2
3 23-4-1309. Authorization of special rate contracts.

4 (a)(1) An investor-owned electric utility or an investor-owned natural
5 gas utility may enter into a special rate contract to serve a new or existing
6 customer location in Arkansas.

7 (2) If the Arkansas Public Service Commission finds that the
8 special rate contract under subdivision (a)(1) of this section is consistent
9 with the public interest, the commission shall enter an order approving the
10 special rate contract within ninety (90) days after an investor-owned
11 electric utility or an investor-owned natural gas utility files an
12 application for approval.

13 (3) If the commission finds that a special rate contract in the
14 application is inconsistent with the public interest under subdivision (b)(2)
15 of this section, the commission shall:

16 (A) Enter an order describing the provisions that are not
17 consistent with the public interest; and

18 (B) Provide an opportunity for the investor-owned electric
19 utility or the investor-owned natural gas utility to file an amended
20 application to remedy the identified insufficiencies.

21 (4)(A) If an investor-owned electric utility or an investor-
22 owned natural gas utility files an amended application remedying those
23 provisions, the commission shall enter an order approving the special rate
24 contract in the application within thirty (30) days after the investor-owned
25 electric utility's or the investor-owned natural gas utility's filing.

26 (B) If the commission determines that approving the
27 contract is inconsistent with the public interest, in its order denying
28 approval of the contract, the commission shall include a discussion of:

29 (i) The basis for the commission's findings; and

30 (ii) The specific evidence or information provided
31 by the investor-owned electric utility or an investor-owned natural gas
32 utility as part of its application upon which the commission relied to reach
33 that conclusion in its order.

34 (C)(i) If an investor-owned electric utility or an
35 investor-owned natural gas utility submits additional evidence or other
36 information demonstrating that the contract is in the public interest, the

1 commission shall enter an order approving the contract within thirty (30)
2 days after its filing unless the commission determines that approving the
3 contract is inconsistent with the public interest.

4 (ii) If the commission determines that approving the
5 contract is inconsistent with the public interest, in its order denying
6 approval of the contract, the commission shall include a discussion of:

7 (a) The basis for the commission's findings;
8 and

9 (b) The specific evidence or information
10 provided by the investor-owned electric utility or the investor-owned natural
11 gas utility as part of its application upon which the commission relied to
12 reach that conclusion in its order.

13 (iii) The process outlined in subdivision (a)(4) of
14 this section may continue until the commission finds that:

15 (a) Approving the contract is in the public
16 interest;

17 (b) The investor-owned electric utility or the
18 investor-owned natural gas utility withdraws its application; or

19 (c) The investor-owned electric utility or an
20 investor-owned natural gas utility appeals the commission's decision under §
21 23-2-423.

22 (b)(1) An investor-owned electric utility or an investor-owned natural
23 gas utility shall be authorized to develop and implement rates and other
24 contract provisions to recover all or part of the cost of any strategic
25 investments necessary to serve the customer as part of the special rate
26 contract if the investor-owned electric utility or the investor-owned natural
27 gas utility demonstrates that doing so is in the public interest.

28 (2) As part of a special rate contract, the investor-owned
29 electric utility or the investor-owned natural gas utility is authorized to
30 set forth customer rates and other contract terms attributable to all or part
31 of the cost of any strategic investments through various cost recovery
32 methods, including without limitation:

33 (A) A contribution in aid of construction;

34 (B) Any other contribution toward the cost of the
35 strategic investments;

36 (C) As part of the customer's monthly rate;

- 1 (D) A customer prepayment or other charge;
2 (E) Prepaid allowance for funds used during construction;
3 or
4 (F) As part of a minimum bill provision.

5 (c) An electric cooperative corporation that is established under the
6 Electric Cooperative Corporation Act, § 23-18-301 et seq., including any
7 electric generation and transmission cooperative, may facilitate the recovery
8 of all or part of the cost in subsections (a) and (b) of this section through
9 one (1) or more riders under this subchapter.

10 (d) This section does not alter or diminish the commission's authority
11 over an electric utility's allocated service territory, including without
12 limitation where the commission has authorized an electric utility to serve
13 within a municipality, territorial district, or other geographic area.

14
15 23-4-1310. Authorization for alternative methods of financing.

16 (a) An electric utility or a natural gas utility may use alternative
17 methods of financing for the purpose of financing strategic investments under
18 this subchapter.

19 (b) The alternative methods of financing may include without
20 limitation:

21 (1) Sale-leaseback agreements;

22 (2) Third-party financing or customer financing; or

23 (3) Other methods of financing.

24 (c)(1) The Arkansas Public Service Commission shall not disallow,
25 impute alternative values, or adjust the financing under this section unless
26 the commission determines based on substantial evidence that:

27 (A) The financing is unreasonable;

28 (B) The costs are not prudently incurred; or

29 (C) The financing is detrimental to customers.

30 (2)(A) If an electric utility or a natural gas utility files
31 additional evidence or other information demonstrating that the financing is
32 reasonable and in the public interest, the commission shall enter an order
33 approving the financing within thirty (30) days after its filing if the
34 commission determines that approving the financing is consistent with the
35 public interest.

36 (B) If the commission determines that approving the

1 financing is inconsistent with the public interest, in its order denying
2 approval of the financing, the commission shall include a discussion of:

3 (i) The basis for the commission's findings; and

4 (ii) The specific evidence or information provided
5 by the electric utility or the natural gas utility as part of its application
6 upon which the commission relied to reach that conclusion in its order.

7 (C)(i) If an electric utility or a natural gas utility
8 submits additional evidence or other information demonstrating that the
9 financing is in the public interest, the commission shall enter an order
10 approving the contract within thirty (30) days after its filing unless the
11 commission determines that approving the financing is inconsistent with the
12 public interest.

13 (ii) If the commission determines that approving the
14 financing is inconsistent with the public interest, in its order denying
15 approval of the financing, the commission shall include a discussion of:

16 (a) The basis for the commission's findings;
17 and

18 (b) The specific evidence or information
19 provided by the electric utility or the natural gas utility as part of its
20 application upon which the commission relied to reach that conclusion in its
21 order.

22 (D) The process outlined in subdivision (c)(2) of this
23 section may continue until the commission finds that:

24 (i) Approving the financing is in the public
25 interest;

26 (ii) The electric utility or the natural gas utility
27 withdraws its application; or

28 (iii) The electric utility or the natural gas
29 utility appeals the commission's decision under § 23-3-423.

30
31 23-4-1311. Rules.

32 (a) The Arkansas Public Service Commission shall amend its rules as
33 required to implement and administer this subchapter.

34 (b) The commission shall initiate a proceeding to establish any new
35 rules or modify any existing rules necessary to administer this subchapter
36 and any other applicable exemptions under this subchapter.

1 (c) The commission shall enter an order approving the rules necessary
2 to administer this subchapter before March 31, 2026.

3 (d) An electric public utility or a natural gas public utility shall
4 be authorized to file an application under this section after the effective
5 date of this act before the commission completes any modification to its
6 rules necessary to carry out this section.

7
8 SECTION 17. Arkansas Code § 23-18-104 is amended to read as follows:

9 23-18-104. Construction of power-generating facilities outside ~~the~~
10 ~~state~~ Arkansas.

11 (a) ~~No~~ Except as provided under subsection (c) of this section, an
12 electric public utility subject to the jurisdiction of the Arkansas Public
13 Service Commission shall not commence construction of any ~~power-generating~~
14 electric generating facility that is a major utility facility to be located
15 outside the boundaries of this state without the express written approval of
16 the commission.

17 (b)(1) ~~Any~~ An electric public utility proposing such construction
18 shall render adequate written notice to the commission of its intent in order
19 that the commission may conduct any germane inspection, investigation, public
20 hearing, or take any other action deemed appropriate by the commission.

21 (2) An electric public utility or natural gas public utility
22 shall provide notice to the commission of its intent to recover any strategic
23 investments, as defined under § 23-4-1303, subject to the Generating Arkansas
24 Jobs Act of 2025, § 23-4-1301 et seq., as part of a public utility's notice
25 under this section or application to construct an electric generation
26 facility under this subchapter.

27 (c) Failure on the part of any electric public utility to obtain prior
28 approval of the commission, as established in this section, shall constitute
29 grounds for disallowance by the commission of all costs and expenses
30 associated with the construction and subsequent operation of the facility
31 when computing the electric public utility's cost of service for purposes of
32 any rate-making proceedings.

33 (d)(1) If the commission determines that approving an electric public
34 utility's application to construct an electric generating facility located
35 outside of Arkansas that is a major utility facility is consistent with the
36 public interest, the commission shall enter an order granting approval of the

1 electric public utility's application within six (6) months after the
2 electric public utility submits its notice of intent to construct electric
3 generating facilities under this section.

4 (2)(A) If the commission determines that granting approval of an
5 application to construct an electric generating facility located outside of
6 Arkansas that is a major utility facility is not in the public interest, the
7 commission shall enter an order.

8 (B) In the order entered by the commission under
9 subdivision (d)(2)(A) of this section, the commission shall discuss:

10 (i) The basis for the commission's determination;
11 and

12 (ii) Any evidence or other information submitted by
13 the electric public utility as part of its notice or application upon which
14 that the commission relied to reach that determination.

15 (3)(A)(i) If an electric public utility submits additional
16 evidence or other information demonstrating that the construction of an
17 electric generating facility located outside of Arkansas that is a major
18 utility facility is reasonable, necessary, and in the public interest, then
19 the commission shall enter an order granting its approval within thirty (30)
20 days after the date of the electric public utility's filing.

21 (ii)(a) If the commission finds that the electric
22 public utility's filing fails to comply with this subchapter, the commission
23 shall enter an order.

24 (b) In the order entered by the commission
25 under subdivision (d)(3)(A)(ii)(a) of this section, the commission shall
26 discuss:

27 (1) The basis for the commission's
28 findings; and

29 (2) Any evidence or other information
30 submitted by the electric public utility as part of its notice or application
31 that the commission finds did not comply with this subchapter.

32 (B) The process described in subdivision (d)(2) of this
33 section and this subdivision (d)(3) may continue until the commission finds
34 that:

35 (i) The electric public utility's application
36 complies with this subchapter;

1 (ii) The electric public utility withdraws its
2 application; or

3 (iii) The electric public utility appeals the
4 commission's decision under § 23-2-423.

5 ~~(d)~~(e) Any electric public utility which does not own in whole or in
6 part another electric public utility and which is not owned in whole or in
7 part by a holding company and which derives less than twenty-five percent
8 (25%) of its total revenues from Arkansas customers is exempt from ~~the~~
9 ~~provisions of~~ this section.

10
11 SECTION 18. Arkansas Code § 23-18-202, concerning the jurisdiction of
12 the Arkansas Public Service Commission, is amended to add an additional
13 subsection to read as follows:

14 (c) An approval shall not be required from the commission for
15 borrowings, loan contracts, notes, mortgages, or guarantees from other public
16 or private sources that have been approved by a majority of the board of
17 directors of an electric cooperative corporation formed under the Electric
18 Cooperative Corporation Act, § 23-18-301 et seq.

19
20 SECTION 19. Arkansas Code § 23-18-502(a), concerning the legislative
21 findings under the Utility Facility Environmental and Economic Protection
22 Act, is amended to add an additional subdivision to read as follows:

23 (4) Furthermore, it is necessary to reform the certification
24 process for construction of major utility facilities under this subchapter to
25 expedite the certification process and reduce the regulatory and
26 administrative burdens associated with the certification process.

27
28 SECTION 20. Arkansas Code § 23-18-503, concerning the definitions used
29 under the Utility Facility Environmental and Economic Protection Act, is
30 amended to add additional subdivisions to read as follows:

31 (16) "Gas transmission line" means a natural gas pipeline or
32 connected series of natural gas pipelines, other than a gathering line, that:

33 (A) Transports gas from a gathering pipeline or natural
34 gas storage facility to a distribution center or to a large volume customer
35 using similar volumes of gas as a distribution center and is not located
36 downstream from a distribution center;

1 (B) Has a maximum allowable operating pressure of twenty
2 percent (20%) or more of specified minimum yield strength;

3 (C) Transports gas within a storage field; or

4 (D) Is voluntarily or otherwise designated by the operator
5 as a transmission pipeline; and

6 (17) "Strategic investments" means the same as defined in § 23-
7 4-1303.

8
9 SECTION 21. Arkansas Code § 23-18-503(6), concerning the definition of
10 "major utility facility" under the Utility Facility Environmental and
11 Economic Protection Act, is amended to read as follows:

12 (6) "Major utility facility" means:

13 (A) ~~A~~ A single electric generating plant and associated
14 transportation and storage facilities for fuel and other facilities designed
15 for or capable of operation at a capacity of fifty megawatts (50 MW) or more;

16 (B) For the sole purpose of requiring an environmental
17 impact statement under this subchapter, an electric transmission line and
18 associated facilities including substations of:

19 (i) A design voltage of one hundred kilovolts (100
20 kV) or more and extending a distance of more than ten (10) miles; or

21 (ii) A design voltage of one hundred seventy
22 kilovolts (170 kV) or more and extending a distance of more than one (1)
23 mile; or

24 (C) ~~For the sole purpose of requiring an environmental~~
25 ~~impact statement under this subchapter, a~~ A gas transmission line and
26 associated facilities designed for or capable of transporting gas at
27 pressures in excess of one hundred twenty-five pounds per square inch (125
28 psi) and extending a distance of more than ~~one (1) mile~~ five (5) miles except
29 gas pipelines devoted solely to the gathering of gas from gas wells
30 constructed within the limits of any gas field as defined by the Oil and Gas
31 Commission;

32
33 SECTION 22. Arkansas Code § 23-18-504(a), concerning exemptions for a
34 major utility facility under the Utility Facility Environmental and Economic
35 Protection Act, is amended to read as follows:

36 (a)(1) This subchapter does not apply to a major utility facility:

1 ~~(1)~~(A) That is located outside of Arkansas;

2 (B) For which, before July 24, 1973, an application for
3 the approval of the major utility facility was made to any federal, state,
4 regional, or local governmental agency that possesses the jurisdiction to
5 consider the matters prescribed for finding and determination in § 23-18-
6 519(a) and (b);

7 ~~(2)~~(C) For which, before July 24, 1973, the Arkansas
8 Public Service Commission issued a certificate of convenience and necessity
9 or otherwise approved the construction of the major utility facility;

10 ~~(3)~~(D) Over which an agency of the federal government has
11 exclusive jurisdiction;

12 ~~(4)~~(E) A majority of which is owned by one (1) or more
13 exempt wholesale generators as defined in § 23-1-101(5);

14 ~~(5)~~(F) That is a major utility facility for generating
15 electric energy, if the majority of the major utility facility is owned by
16 any person, including without limitation a public utility that will not
17 recover the cost of the major utility facility in rates subject to regulation
18 by the commission; or

19 ~~(6)~~(G) That is a gas pipeline of less than five (5) miles
20 in length constructed:

21 ~~(A)~~(i) Primarily for serving a single customer or a
22 group of customers that is under common ownership or control;

23 ~~(B)~~(ii) For use by the customer or group of
24 customers that have entered into a lease to facilitate the issuance of bonds
25 under Title 14, Chapter 164 of this Code; and

26 ~~(C)~~(iii) Entirely on land:

27 ~~(i)~~(a) Owned by the customer or group of
28 customers to be served; or

29 ~~(ii)~~(b) Leased by the customer or group of
30 customers to be served.

31

32 SECTION 23. Arkansas Code § 23-18-508 is amended to read as follows:
33 23-18-508. Rules.

34 (a) The Arkansas Public Service Commission shall have and is granted
35 the power and authority to make and amend from time to time after reasonable
36 notice and hearing reasonable rules establishing exemptions from some or all

1 of the requirements of this subchapter for the construction, reconstruction,
2 or expansion of any major utility facility which is unlikely to have major
3 adverse environmental or economic impact by reason of length, size, location,
4 available space, or right-of-way on or adjacent to existing utility
5 facilities, and similar reasons.

6 (b) The commission shall:

7 (1) Initiate a proceeding to modify any existing rules necessary
8 to administer this subchapter and any other applicable exemptions under this
9 subchapter; and

10 (2) Enter an order modifying any existing rules on or before
11 March 31, 2026.

12 (c) An electric or natural gas public utility shall be authorized to
13 file an application under this section after the effective date of this act
14 before the commission completes any modification of its rules necessary to
15 carry out this section.

16
17 SECTION 24. Arkansas Code § 23-18-510 is amended to read as follows:

18 23-18-510. Certificate of environmental compatibility and public need
19 – Requirement – Exceptions.

20 (a)(1) Except for persons exempted as provided in subsection (c) of
21 this section and § 23-18-504(a) and § 23-18-508, a person shall not begin
22 construction of a major utility facility in the state without first obtaining
23 a certificate of environmental compatibility and public need for the major
24 utility facility from the Arkansas Public Service Commission.

25 (2)(A) The replacement, reconfiguration, or expansion of an
26 existing transmission facility with a similar facility in substantially the
27 same location or the rebuilding, upgrading, modernizing, or reconstruction
28 for the purposes of increasing capacity or reusing a generation or
29 transmission interconnection shall not constitute construction of a major
30 utility facility if no increase in width of right-of-way is required.

31 (B) In the instance of a generation facility that would
32 meet the requirements of subdivision (a)(2)(A) of this section but for an
33 increase in the width of the right-of-way caused by replacement,
34 reconfiguration, or expansion of a transmission or related facility, the
35 commission shall consider the generation facility separately from any
36 transmission or related facilities to be under separate construction.

1 (b)(1) An entity, including without limitation a person, public
2 utility, utility, regional transmission organization, municipality, merchant
3 transmission provider, merchant generator, or other entity, whether regulated
4 or not by the commission, shall not begin construction of an electric
5 transmission line and associated facilities, as described in § 23-18-
6 503(6)(B), within a national interest electric transmission corridor without
7 first obtaining a certificate of environmental compatibility and public need
8 for the facility from the commission.

9 (2) An electric public utility or a natural gas public utility
10 shall provide notice to the commission of its intent to construct to recover
11 any strategic investments, as defined under § 23-4-1303, subject to the
12 Generating Arkansas Jobs Act of 2025, § 23-4-1301 et seq., as part of a
13 public utility's application under the Utility Facility Environmental and
14 Economic Protection Act, § 23-18-501 et seq.

15 (c) This subchapter does not require a certificate of environmental
16 compatibility and public need or an amendment of such a certificate for:

17 (1) Reconstruction, alteration, or relocation of a major utility
18 facility that must be reconstructed, altered, or relocated because of the
19 requirements of a federal, state, or county governmental body or agency for
20 purposes of highway transportation, public safety, or air and water quality;
21 or

22 (2) An electric transmission line and associated facilities
23 including substations of a design voltage of one hundred kilovolts (100 kV)
24 or more to be constructed or operated by a municipal electric utility system
25 that is located within the territorial limits of the municipal electric
26 utility system.

27 (d) An entity granted a certificate of environmental compatibility and
28 public need pursuant to subsection (b) of this section shall have the right
29 of eminent domain as provided by Arkansas law for the limited purpose of
30 constructing the certificated electric transmission line and associated
31 facilities, as described in § 23-18-503(6)(B), to the extent that the
32 facility is located within a national interest electric transmission
33 corridor.

34 (e)(1) Strategic investments in major utility facilities under § 23-
35 18-503(6)(A) located on the same or adjacent property or in the same rights-
36 of-way or adjacent rights-of-way by a public utility are exempt from this

1 subchapter but shall be subject to the requirements of § 23-3-201 et seq.

2 (2) The purchase of a major utility facility constructed by a
3 third party for that third party, upon completion of construction or at any
4 time after completion of construction, by a public utility is exempt from
5 this subchapter but shall be subject to the requirements of § 23-3-201 et
6 seq.

7 (3) Except as provided in this section, this section does not
8 alter the powers and authority of the commission.

9
10 SECTION 25. Arkansas Code § 23-18-513 is amended to read as follows:

11 23-18-513. Application for certificate ~~—Service or notice of~~
12 ~~application.~~

13 (a) Each public utility filing an application for a certificate of
14 environmental compatibility and public need shall ~~be accompanied by proof of~~
15 ~~service of a copy of the application or~~ provide notice of its application as
16 the Arkansas Public Service Commission may require.

17 (b) Each application submitted under subsection (a) of this section
18 shall be accompanied by proof of notice of the application to:

19 (1) The mayor of each municipality;

20 (2) The county judge;

21 (3) The chair of the county planning board, if any;

22 (4) Any head of a governmental agency charged with the duty of
23 protecting the environment or of planning land use, upon which the Arkansas
24 Public Service Commission has by rule or order directed that service be made,
25 in the area in which any portion of such facility is to be located, both as
26 primarily and as alternatively proposed;

27 (5) Each member of the General Assembly in whose district the
28 facility or any alternative location listed in the application is to be
29 located;

30 (6) The office of the Governor; and

31 (7) The director or other administrative head of the following
32 state agencies or departments:

33 (A) Division of Environmental Quality;

34 (B) Department of Health;

35 (C) Arkansas Economic Development Commission;

36 (D) Arkansas Department of Transportation;

1 (E) Arkansas State Game and Fish Commission;
2 (F) Arkansas Natural Heritage Commission;
3 (G) Any state agency which may have the authority to
4 assist in financing the applicant's facility;
5 (H) Any other state agency or department which manages or
6 has jurisdiction over state-owned lands on which all or part of the proposed
7 utility facility is to be or may be located;
8 (I) Department of Finance and Administration;
9 (J) ~~State Energy Conservation and Policy Office~~
10 ~~{abolished};~~
11 ~~(K) The office of the~~ Attorney General; and
12 ~~(L)(K)~~ Any other state agency or department designated by
13 Arkansas Public Service Commission rule or order; ~~and~~
14 ~~(8) Proof that a copy of the application has been made available~~
15 ~~for public inspection at all public libraries in each county in which the~~
16 ~~proposed utility facility is to be or may be located.~~
17 ~~(b)(c)~~ The copy of the application shall be accompanied by a notice
18 specifying the date on or about which the application is to be filed and a
19 notice that interventions or limited appearances must be filed with the
20 Arkansas Public Service Commission within thirty (30) days after the date set
21 forth as the date of filing, unless good cause is shown pursuant to § 23-18-
22 517.
23 ~~(e)(1)(d)(1)~~ Each application shall also be accompanied by proof that
24 written notice specifying the date on or about which the application is to be
25 filed and the date that interventions or limited appearances must be filed
26 with the Arkansas Public Service Commission, unless good cause is shown
27 pursuant to § 23-18-517, has been sent by certified mail to each owner of
28 real property on the proposed route selected by the public utility on which a
29 major utility facility is to be located or constructed.
30 (2) The written notice required by this subsection shall be
31 directed to the address of the owner of the real property as it appears on
32 the records in the office of the county sheriff or county tax assessor for
33 the mailing of statements for taxes as provided in § 26-35-705.
34 ~~(d)(1)(e)~~ Each application shall also be accompanied by proof that
35 public notice of the application was given to persons residing in
36 municipalities and counties entitled to receive notice under subsection ~~(a)~~

1 (b) of this section by the publication in a newspaper having substantial
2 circulation in the municipalities or counties of:

3 ~~(A)~~(1) A summary of the application;

4 ~~(B)~~(2) A statement of the date on or about which it is to be
5 filed; and

6 ~~(C)~~(3) A statement that intervention or limited appearances
7 shall be filed with the Arkansas Public Service Commission within thirty (30)
8 days after the date stated in the notice, unless good cause is shown under §
9 23-18-517.

10 ~~(2)~~~~(A)~~(4) For purposes of this subsection, an environmental
11 impact statement submitted as an exhibit to the application need not be
12 summarized, but the published notice shall include a statement that the
13 impact statements are on file at the office of the Arkansas Public Service
14 Commission and available for public inspection or are available
15 electronically on the Arkansas Public Service Commission's website.

16 ~~(B)~~ The applicant shall also cause copies of the
17 environmental impact statement to be furnished to at least one ~~(1)~~ of its
18 local offices, if any, in the counties in which any portion of the major
19 utility facilities are to be located, both as primarily or as alternatively
20 proposed, to be there available for public inspection.

21 ~~(C)~~ The published notice shall contain a statement of the
22 location of the local offices described in subdivision ~~(d)~~~~(2)~~~~(B)~~ of this
23 section and the times the impact statements will be available for public
24 inspection.

25 ~~(e)~~(f) Inadvertent failure of service on or notice to any of the
26 municipalities, counties, governmental agencies, or persons identified in
27 subsections ~~(a)~~ and ~~(c)~~ (b) and (d) of this section may be cured pursuant to
28 orders of the Arkansas Public Service Commission designed to afford such
29 persons adequate notice to enable their effective participation in the
30 proceedings.

31 ~~(f)~~(g) In addition, after filing, the Arkansas Public Service
32 Commission may require the applicant to serve notice of the application or
33 copies thereof, or both, upon such other persons and file proof thereof, as
34 the Arkansas Public Service Commission may deem appropriate.

35 ~~(g)~~(h) Where any personal service or notice is required in this
36 section, the service may be made by any officer authorized by law to serve

1 process, by personal delivery, or by certified mail.

2
3 SECTION 26. Arkansas Code § 23-18-514 is repealed.

4 ~~23-18-514. Application for certificate—Commentary by state agencies~~
5 ~~—Deficiency letters.~~

6 ~~(a)(1) Promptly after the filing of an application for a certificate~~
7 ~~of environmental compatibility and public need, the staff of the Arkansas~~
8 ~~Public Service Commission shall invite comments from all state agencies~~
9 ~~entitled to service under § 23-18-513 as to the adequacy of applicant's~~
10 ~~statements.~~

11 ~~(2) The invitation to comment shall advise the state agencies~~
12 ~~that comments must be received within sixty (60) days of the date of mailing~~
13 ~~or delivery thereof, unless an agency requests for cause a longer period for~~
14 ~~consideration.~~

15 ~~(b)(1) Upon review of the comments, if any, if the staff shall~~
16 ~~determine that the applicant failed to include or adequately develop any~~
17 ~~relevant environmental or economic aspect of the facility, it shall issue a~~
18 ~~deficiency letter pointing out in detail all such specific deficiencies in~~
19 ~~the statements.~~

20 ~~(2) The deficiency letter shall be prepared and served upon the~~
21 ~~applicant as promptly as possible and in no event later than twenty (20) days~~
22 ~~before the date set for the public hearing.~~

23 ~~(3) The applicant shall promptly respond to any deficiency~~
24 ~~letter, and the public hearing shall be deferred unless the applicant has~~
25 ~~responded prior thereto to any deficiency letter.~~

26
27 SECTION 27. Arkansas Code § 23-18-516(a)(1), concerning hearings on
28 applications or amendments, is amended to read as follows:

29 (a)(1) Upon receipt of an application complying with §§ 23-18-511 –
30 ~~23-18-514~~ 23-18-513, the Arkansas Public Service Commission shall promptly
31 fix a date for the commencement of a public hearing thereon, which date shall
32 be not ~~fewer than forty (40) days nor more than one hundred eighty (180)~~
33 ninety (90) days after the receipt of the application, and shall conclude the
34 proceedings as expeditiously as practicable.

35
36 SECTION 28. Arkansas Code § 23-18-517(a), concerning parties to

1 certification proceedings, is amended to read as follows:

2 (a) The parties to a certification proceeding shall include:

3 (1) The applicant; or

4 (2) ~~Each municipality, county, and government agency or~~
 5 ~~department or other person entitled to receive service of a copy of the~~
 6 ~~application under § 23-18-513(a) if it has filed with the Arkansas Public~~
 7 ~~Service Commission a notice of intervention as a party within thirty (30)~~
 8 ~~days after service; or~~

9 ~~(3) A person residing in a municipality or county that is~~
 10 ~~entitled to receive service of a copy of the application under § 23-18-513(a)~~
 11 ~~or any domestic nonprofit corporation formed in whole or in part to promote~~
 12 ~~conservation or natural beauty, to promote energy conservation, to protect~~
 13 ~~the environment, personal health, or other biological values, to represent~~
 14 ~~commercial and industrial groups, or to promote the orderly development of~~
 15 ~~the areas in which the facility is to be located if the:~~

16 ~~(A) Person or organization has an interest that may be~~
 17 ~~directly affected by the commission's action;~~

18 ~~(B) Interest is not adequately represented by other~~
 19 ~~parties; and~~

20 ~~(C) Person~~ A person as defined under § 23-1-101(8) or
 21 ~~corporation that~~ has petitioned the commission for leave to intervene as a
 22 party within thirty (30) days after the date given in the public notice as
 23 the date of filing the application.

24

25 SECTION 29. Arkansas Code § 23-18-519(a), concerning decisions of the
 26 Arkansas Public Service Commission and modifications of applications, is
 27 amended to read as follows:

28 (a)(1) The Arkansas Public Service Commission shall render a decision
 29 upon the record either granting or denying the application as filed or
 30 granting it upon such terms, conditions, or modifications of the location,
 31 financing, construction, operation, or maintenance of the major utility
 32 facility as the commission may deem appropriate.

33 (2) The record may include by reference the findings of the
 34 commission in an energy resource declaration-of-need proceeding that the
 35 utility needs additional energy supply resources or transmission resources.

36 (3)(A) If the commission determines that granting a certificate

1 of environmental compatibility and public need is in the public interest, it
2 shall enter an order granting a certificate of environmental compatibility
3 and public need within six (6) months after the receipt of the application.

4 (B)(i) If the commission determines that granting a
5 certificate of environmental compatibility and public need is not in the
6 public interest, it shall enter an order.

7 (ii) An order entered under subdivision (a)(3)(B)(i)
8 of this section shall discuss:

9 (a) The basis for the commission's findings;
10 and

11 (b) Any evidence upon which the commission
12 relied to reach that conclusion in its order.

13 (C)(i) If a public utility submits additional evidence
14 demonstrating that the strategic investments in major utility facilities that
15 are subject to this subchapter are reasonable, necessary, and in the public
16 interest, the commission shall enter an order granting the certificate within
17 thirty (30) days after the date of the public utility's filing unless the
18 commission finds that the strategic investments subject to this subchapter
19 are not reasonable, necessary, or in the public interest.

20 (ii) An order entered under subdivision (a)(3)(C)(i)
21 of this section shall discuss:

22 (a) The basis for the commission's findings;
23 and

24 (b) Any evidence or other information upon
25 which the commission relied to reach that conclusion in its order.

26 (iii) The process outlined in subdivision (a)(3)(B)
27 of this section and this subdivision (a)(3)(C) may continue until the
28 commission finds that:

29 (a) The strategic investments subject to this
30 subchapter are reasonable, necessary, and in the public interest;

31 (b) The public utility withdraws its
32 application; or

33 (c) The public utility appeals the
34 commission's decision under § 23-2-423.

35
36 SECTION 30. Arkansas Code § 23-18-521 is amended to read as follows:

1 23-18-521. Issuance of certificate – Effect.

2 (a) A certificate to construct and operate a major utility facility
3 may be issued only under this subchapter unless a certificate is not required
4 under § 23-18-510(c) or 23-18-510(e).

5 (b)(1) A certificate issued under this subchapter to an applicant is
6 in lieu of and exempts the applicant from the requirements of obtaining a
7 certificate of convenience and necessity under § 23-3-201 et seq.

8 (2) A certificate issued under this subchapter entitles the
9 applicant to a permit under § 23-3-501 et seq. without any further notice or
10 hearing if the applicant has filed with the Arkansas Public Service
11 Commission the consent or authorization required by § 23-3-504(7) and paid
12 the damages stated in § 23-3-501 et seq.

13 (c) If the applicant is a corporation, before a certificate can be
14 issued under § 23-18-519, a certified copy of the articles of incorporation
15 or charter shall be on file with the commission.

16
17 SECTION 31. EMERGENCY CLAUSE. It is found and determined by the
18 General Assembly of the State of Arkansas that significant investment in
19 electric public utility infrastructure and natural gas public utility
20 infrastructure is required to enable this state to attract and serve economic
21 development projects across a variety of industries, as well as to continue
22 reliably supporting existing and new customers; that these economic
23 development projects and the continued provision of reliable electric utility
24 services and natural gas utility services are essential to the future of this
25 state; and that this act is immediately necessary because strategic
26 investments in electric public utility infrastructure and natural gas public
27 utility infrastructure support the development of sites available for
28 economic development projects. Therefore, an emergency is declared to exist,
29 and this act being immediately necessary for the preservation of the public
30 peace, health, and safety shall become effective on:

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

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

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

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/s/J. Dismang

APPROVED: 3/20/25