



State of Arkansas
Bureau of
Legislative Research

Marty Garrity, Director
 Kevin Anderson, Assistant Director
 for Fiscal Services
 Tim Carlock, Assistant Director
 for Information Technology
 Matthew Miller, Assistant Director
 for Legal Services
 Richard Wilson, Assistant Director
 for Research Services

State Agency Litigation Notification Form

Dear Agency Director:

Arkansas Code § 10-3-312 requires that any agency or institution that is not represented by the Attorney General shall notify the Director of the Bureau of Legislative Research of pending litigation so that the appropriate legislative committee may “determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter.”

In order to submit a report regarding pending litigation pursuant to Arkansas Code § 10-3-312, please complete the following form for each pending lawsuit, along with a cover letter to the Director of the Bureau of Legislative Research, and submit to potratza@blr.arkansas.gov .

DATE REPORTING:			
Agency:	Arkansas Public Service Commission	Phone:	501-682-5827
E-mail:	valerie.boyce@arkansas.gov	Contact:	Valerie Boyce
1. STYLE OF THE CASE BEING LITIGATED			
Entergy Arkansas, LLC and Arkansas Attorney General v. Arkansas Public Service Commission			
2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)			
Arkansas Court of Appeals			
3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED			
Validity of Order Nos. 3, 4, 5, 6, and 8 in APSC Docket No. 19-055-U (In the Matter of the Implementation of Act 464 of 2019 and the Modification of Net Metering Tariffs)			
3A. OTHER DESCRIPTION INFORMATION			
Docket Number	CV-20-24		
Date Filed	1/13/2020		
Defendant	Arkansas Public Service Commission		
Defendant Attorney	Fran Hickman and Valerie Boyce		
Plaintiff	Entergy Arkansas, LLC and Arkansas Attorney General		
Plaintiff Attorney	(EAL) Michael Heister, Steven Quattlebaum, et al.; (AG) Christina Baker, Michael Sappington		
4. ANY OTHER RELEVANT INFORMATION			
4A. OTHER RELEVANT INFORMATION			
Case History	Arises from APSC Docket No. 19-055-U		
Relief Sought	Remand or reversal of Orders		
Current Status	Briefing completed, awaiting decision of Court		



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DATE REPORTING:	
Agency:	Arkansas Public Service Commission
E-mail:	valerie.boyce@arkansas.gov
Phone:	501-682-5827
Contact:	Valerie Boyce
1. STYLE OF THE CASE BEING LITIGATED	
Entergy Arkansas, LLC v. Ted J. Thomas, in his official capacity as Chairman of the Arkansas Public Service Commission, et al.	
2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)	
US. District Court, Eastern Division of Arkansas	
3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED	
Seeking to overturn APSC Order No. 12 in APSC Docket No. 19-020-TF denying EAL's proposal to recover in retail rates \$135 million in damages ordered by the FERC to make the other Entergy Operating Companies whole as a result of EAL's misallocation of Opportunity Sales energy costs.	
3A. OTHER DESCRIPTION INFORMATION	
Docket Number	4:20CV1088-KGB
Date Filed	Sept. 11, 2020
Defendant	Ted J. Thomas, Kimberly A. O'Guinn, and Justin Tate, in their official capacities
Defendant Attorney	Rand Hightower, Justin Craig, Glen Ortman, Dennis Lane
Plaintiff	Entergy Arkansas, LLC
Plaintiff Attorney	Michael B. Heister, Karen H. Freese, Matthew T. Brown, Cesar Caballero, Sanford I. Weisburst
4. ANY OTHER RELEVANT INFORMATION	
4A. OTHER RELEVANT INFORMATION	
Case History	Arising from APSC Docket No. 19-020-TF
Relief Sought	Declaratory judgment that federal law preempts APSC Order; and other (see cover letter)
Current Status	Complaint filed; Motion to Dismiss filed; Initial Scheduling Order filed.

Ted J. Thomas
Chairman
(501) 682-5806

Kimberly A. O'Guinn
Commissioner
(501) 682-5809

Justin Tate
Commissioner
(501) 682-5809

**ARKANSAS
PUBLIC SERVICE COMMISSION**
1000 Center Street
P.O. Box 400
Little Rock, Arkansas 72203-0400
<http://www.Arkansas.gov/psc>



Valerie F. Boyce
Chief of Commissioners' Staff,
Chief Administrative Law Judge
(501) 682-5827

October 28, 2020

Ms. Marty Garrity, Director
Bureau of Legislative Research
State Capitol, Room 315
Little Rock, AR 72201

RE: Case No. 4:20CV1088-KGB, USDC (E. Div. Ark.)
Entergy Arkansas, LLC v. Ted J. Thomas, in his official capacity as
Chairman of the APSC, and Kimberly A. O'Guinn and Justin Tate, in their
official capacity as Commissioners of the APSC

Dear Ms. Garrity:

Enclosed please find a Litigation Reporting Form pursuant to Ark. Code Ann. § 10-3-312 for the above-referenced case. Because the form would not allow a full recitation of the relief sought, I am explaining it more fully here:

Declaratory judgment that federal law preempts APSC Order; APSC Order violates Dormant Commerce Clause; federal law requires new APSC Order authorizing retail recovery; and federal law prohibits ordering bandwidth credit to retail customers while denying recovery of FERC payment from customers. Permanent injunction requiring withdrawal of APSC Order; requiring APSC Order authorizing recovery of FERC payment from customers; and prohibiting ordering bandwidth credit to retail customers while denying recovery of FERC payment from customers. Declaratory judgment, pursuant to Arkansas law, that APSC Order is arbitrary and capricious and not supported by substantial evidence. Permanent injunction, pursuant to Arkansas law, requiring withdrawal of APSC order; and requiring issuance of APSC Order authorizing recovery of FERC payment from customers. Attorneys' fees and costs.

Please let me know if you need anything further.

Yours truly,

A handwritten signature in cursive script that reads "Valerie F. Boyce".

Valerie F. Boyce

Encl.



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DATE REPORTING:	
Agency:	Arkansas Public Service Commission
E-mail:	valerie.boyce@arkansas.gov
Phone:	501-682-5827
Contact:	Valerie Boyce
1. STYLE OF THE CASE BEING LITIGATED	
Petit Jean Elec. Coop., et al. v. Ark. Public Service Commission	
2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)	
Arkansas Court of Appeals	
3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED	
Appeal of Commission Order Nos. 28 and 33 in Docket No. 16-027-R approving revised Net Metering Rules.	
3A. OTHER DESCRIPTION INFORMATION	
Docket Number	CV 20-610 (consolidated)
Date Filed	10/27/2020
Defendant	Arkansas Public Service Commission
Defendant Attorney	Valerie Boyce
Plaintiff	Petit Jean Elec. Coop., Entergy Ark., Ark. Elec. Coop., Scenic Hill Solar
Plaintiff Attorney	John Keeling Baker, Michael Heister, John Elkins, Jason Keyes, et al.
4. ANY OTHER RELEVANT INFORMATION	
The four appellants filed four separate appeals (CV 20-610, CV 20-618, CV 20-619, CV 20-620) of the same Commission orders, which were consolidated by the Court 12/9/20 at the Commission's request.	
4A. OTHER RELEVANT INFORMATION	
Case History	APSC Docket No. 16-027-R
Relief Sought	Reversal of Order Nos. 28 and 33.
Current Status	Awaiting filing of record and briefing