

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 2139

4
5 By: Representative Napper
6
7

For An Act To Be Entitled

8
9 "AN ACT TO RESTRUCTURE THE ELECTRIC UTILITY INDUSTRY
10 IN ARKANSAS; TO PROVIDE CONSUMER CHOICE IN THE SUPPLY
11 OF RETAIL ELECTRICITY; AND FOR OTHER PURPOSES."

Subtitle

12
13
14 "TO RESTRUCTURE THE ELECTRIC UTILITY
15 INDUSTRY IN ARKANSAS AND PROVIDE
16 CONSUMER CHOICE IN THE SUPPLY OF RETAIL
17 ELECTRICITY."
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. SHORT TITLE. This Act may be known and cited as the
23 "Arkansas Electric Utility Industry Restructuring and Consumer Choice Act."
24

25 SECTION 2. LEGISLATIVE FINDINGS AND PURPOSE.

26 (a) Legislative Findings. The General Assembly finds that:

27 (1) The supply of electricity has previously been regulated;
28 however, recent changes in the energy marketplace, technology, and federal law
29 have created an opportunity for increased competition in the electric
30 generation industry;

31 (2) Increased competition in the generation and sale of
32 electricity is in the best interest of the citizens of this state;

33 (3) Restructuring of the electric utility industry to provide
34 greater competition is a national trend and the State of Arkansas must
35 aggressively pursue restructuring and increased consumer choice in order to
36 provide electric generation service at the lowest and most competitive rates;

1 (4) Effective competition must be assured in a restructured
 2 electric utility industry; and

3 (5) Creation of an Independent Transmission Entity is fundamental
 4 to equal open access in a restructured environment and effective competition
 5 cannot be achieved without an Independent Transmission Entity.

6 (b) Purpose. The purpose of this Act is to restructure the electric
 7 utility industry in Arkansas and provide Consumer choice in the sale of
 8 electricity at Retail while:

9 (1) Protecting the Consumer from, among other things,
 10 unauthorized switching of service and other unfair marketing and sales
 11 practices, and decreased service, reliability and safety in the delivery of
 12 electricity;

13 (2) Preventing duplication of the existing electricity delivery
 14 infrastructure and unfair cost shifting to residential, small business and
 15 rural Consumers by maintaining Certificated Areas;

16 (3) Maintaining open and equitable access to the high-voltage
 17 transmission system for all Electricity Providers; and

18 (4) Allowing recovery of reasonable Stranded Costs.

19
 20 SECTION 3. DEFINITIONS. As used in this Act, unless the context
 21 otherwise requires:

22 (a) "Affiliate" means any Person which controls, is controlled by or
 23 which is under common control with another Person.

24 (b) "Allocated Territory" means the geographic area within which an
 25 Electric Utility, Municipal Utility or Electric Cooperative Corporation was
 26 exclusively entitled to sell electricity at Retail prior to the Open Retail
 27 Access Date.

28 (c) "Certificated Area" means that geographic area assigned to an
 29 Electric Distribution Company for the provision of Electric Distribution
 30 Services on and after the Open Retail Access Date pursuant to Section 9 of
 31 this Act.

32 (d) "Commission" means the Arkansas Public Service Commission.

33 (e) "Customer" or "Consumer" means a Retail user of electricity and
 34 related services.

35 (f) "Divest" means to legally transfer ownership and control to an
 36 entity that is not an Affiliate.

1 (g) "Electric Cooperative Corporation" means a cooperative, nonprofit,
2 membership corporation organized pursuant to the Electric Cooperative
3 Corporation Act, or any successor to such corporation.

4 (h) "Electric Distribution Company" means an Electric Utility or an
5 Electric Cooperative Corporation which provides Electric Distribution Services
6 to Customers within a Certificated Area, or a Participating Municipal Utility
7 which provides Electric Distribution Services to Customers within its Service
8 Area. The term does not include building or facility owners or operators that
9 manage solely for the benefit of the owner the internal distribution system
10 serving the building or facility and that supply electric power and other
11 related services to occupants of the building or facility.

12 (i) "Electric Distribution Services" means the delivery, metering and
13 billing of electricity in a Certificated Area or Service Area for Retail
14 consumption over (1) any transmission line, regardless of voltage level, or
15 (2) distribution facilities, including substations, oil circuit reclosers,
16 regulators, meters and other facilities and equipment generally associated
17 with the distribution for Retail consumption of electricity.

18 (j) "Electric Utility" means an investor-owned utility or any other
19 Person, other than a Municipal Utility or Electric Cooperative Corporation,
20 which owns or operates in this state equipment or facilities for producing,
21 generating, transmitting, delivering or furnishing electricity for the
22 production of light, heat or power to, or for, the public for compensation.

23 (k) "Electricity Provider" means a Person that utilizes the regulated
24 transmission or distribution facilities of an Electric Distribution Company
25 and brokers, markets, aggregates, or sells electricity in this state to
26 Customers at retail or Electric Distribution Companies. The term also
27 includes Participating Municipal Utilities and Generation and Transmission
28 Electric Cooperative Corporations. The term also includes a Person that
29 produces electricity for its own use and uses the Electric Distribution
30 Services of an Electric Distribution Company to transmit or deliver such
31 electricity.

32 (l) "Generation and Transmission Electric Cooperative Corporation"
33 means an Electric Cooperative Corporation providing electricity for resale to
34 Electric Cooperative Corporations.

35 (m) "Generation Assets" includes all real estate, fixtures and
36 personal property owned, controlled, operated or managed in connection with,

1 or to facilitate, the generation of electric power.

2 (n) "Independent Transmission Entity" or "ITE" means an entity which
3 meets all of the following principles:

4 (1) An ITE's governance shall be structured in a fair and non-
5 discriminatory manner.

6 (2) An ITE and its employees shall have no financial interest in
7 the economic performance of any Electricity Provider which participates in the
8 ITE. An ITE shall adopt and enforce strict conflict of interest standards.

9 (3) An ITE shall provide open access to the transmission system
10 and all services under its control pursuant to a single, unbundled, grid-wide
11 tariff that applies to all eligible users in a non-discriminatory manner.
12 Transition and ancillary services shall be provided at single, system rates.

13 (4) An ITE shall have the primary responsibility in ensuring
14 short-term reliability of transmission grid operations. Its role in this
15 responsibility shall be well-defined and comply with applicable standards set
16 by the North American Electric Reliability Council and the regional
17 reliability council.

18 (5) An ITE shall have control over the operation of
19 interconnected transmission facilities within its region.

20 (6) An ITE shall identify constraints on the system and be able
21 to take operational actions to relieve those constraints within the trading
22 rules established by the governing body. These rules shall promote efficient
23 trading.

24 (7) An ITE shall have appropriate incentives for efficient
25 management and administration and shall procure the services needed for such
26 management and administration in an open competitive market.

27 (8) An ITE's transmission and ancillary services pricing
28 policies shall promote the efficient use of and investment in generation,
29 transmission, and consumption.

30 (9) An ITE shall make transmission system information publicly
31 available on a timely basis via an electronic information network consistent
32 with the Federal Energy Regulatory Commission's requirements.

33 (10) An ITE shall develop mechanisms to coordinate with control
34 areas.

35 (11) An ITE shall establish an alternate dispute resolution
36 process to resolve disputes in the first instance.

1 (o) "Municipal Utility" means any city, town, or improvement district
2 which, either itself, or through an agency, instrumentality or other corporate
3 entity created thereby, provides Electric Distribution Services or brokers,
4 markets, aggregates, or sells electricity to Customers.

5 (p) "Open Retail Access Date" means the date set forth in Section 4 of
6 this Act on which Consumers of electricity may purchase electricity at Retail
7 from any Electricity Provider.

8 (q) "Option Period" means the twenty-four (24) month period set forth
9 in Section 4 of this Act during which a Consumer may continue receiving
10 electricity at a Regulated Rate.

11 (r) "Participating Municipal Utility" means a Municipal Utility that
12 elects to participate in a competitive market pursuant to Section 14 of this
13 Act.

14 (s) "Person" means any natural person, association, corporation,
15 business trust, partnership, limited liability company or any other entity, or
16 state or political subdivision thereof, agency of the federal government or
17 any body politic.

18 (t) "Premises" means lands and tenements to which electricity is
19 provided for use by a Consumer.

20 (u) "Qualifying Facility" means a cogeneration or small power
21 production facility entitled to the rights and privileges of a qualifying
22 facility under the Public Utility Regulatory Policies Act of 1978.

23 (v) "Recovery Period" means that period of time over which an Electric
24 Utility, Electric Cooperative Corporation or Participating Municipal Utility
25 may impose a Stranded Cost Surcharge.

26 (w) "Regulated Rate" means the rate approved by the Commission at which
27 a Consumer may purchase electricity from an Electric Utility, Electric
28 Cooperative Corporation or Participating Municipal Utility during the Option
29 Period.

30 (x) "Retail" means the sale of electricity to a Person for that
31 Person's use and not for resale.

32 (y) "Service Area" means the geographic area in which a Municipal
33 Utility provided Electric Distribution Services, as of December 31, 1997,
34 without regard to subsequent annexation.

35 (z) "Stranded Costs" means the total sum of all legitimate, verifiable
36 and unmitigable costs of an Electric Utility, Electric Cooperative Corporation

1 or Participating Municipal Utility, calculated on a system-wide basis, for
2 Generation Assets, power purchase contracts and generation fuel contracts made
3 unrecoverable as a result of the restructuring of the electric industry
4 required by this Act. Stranded Costs may not include costs or charges that
5 would not have been eligible for recovery in rates under continued rate
6 regulation.

7 (aa) "Stranded Cost Surcharge" means a charge calculated to recover the
8 Stranded Costs of an Electric Utility, Electric Cooperative Corporation or
9 Participating Municipal Utility.

10 (bb) "Transition Costs" means (1) those unfunded mandates by the
11 Commission for the establishment and implementation of electric consumer
12 choice educational requirements for public benefit and (2) any other prudent
13 and verifiable cost as determined or approved by the Commission which is the
14 direct result of the restructuring of the electric industry required by this
15 Act, incurred by an Electric Utility, Electric Cooperative Corporation or
16 Participating Municipal Utility. Transition costs may not include costs that
17 are includable in the calculation of Stranded Costs or costs incurred prior to
18 the effective date of this Act.

19
20 SECTION 4. CONSUMER CHOICE.

21 (a) Open Retail Access Date. On and after January 1, 2003, or such
22 later date established by the Commission pursuant to Subsection 4(c) hereof,
23 any Consumer may purchase or otherwise receive electricity from any
24 Electricity Provider which has been issued a certificate of authority by the
25 Commission and which chooses to offer such service to such Consumer.

26 (b) Option Period. For a period of twenty-four (24) months after the
27 Open Retail Access Date, a Consumer shall continue receiving electricity at
28 the Regulated Rate from its existing Electricity Provider unless the Consumer
29 elects at any time during the Option Period to purchase electricity from any
30 other Electricity Provider or from its existing Electricity Provider at a rate
31 other than the Regulated Rate. Once a Consumer makes such election, the
32 Consumer may not thereafter elect to purchase electricity at the Regulated
33 Rate.

34 (c) Postponement. Notwithstanding the provisions of Subsection 4(a)
35 hereof, the Open Retail Access Date shall not commence on January 1, 2003, and
36 the Commission shall delay the Open Retail Access Date until such time as it

1 makes specific findings that:

2 (1) Implementation of this Act would not materially adversely
 3 affect the reliability of the electric system in Arkansas;

4 (2) The rates to which Arkansas Consumers would be subject would
 5 not be materially adversely affected by implementation of this Act;

6 (3) All communications and information systems necessary for
 7 implementation of this Act have been installed;

8 (4) There is reliable, open and equitable access to the electric
 9 transmission system, all Electricity Providers having subjected their
 10 transmission facilities to control by an Independent Transmission Entity; and

11 (5) The orderly implementation of the legislative purpose of this
 12 Act can be achieved.

13 (d) Assurance Against Undue Delay of Competition. To ensure
 14 competition by January 1, 2003 or as soon thereafter as practicable, the
 15 Commission is empowered, if it determines that an Electric Utility,
 16 Participating Municipal Utility or Electric Cooperative Corporation is
 17 attempting to thwart the beginning of competition in Arkansas by the Open
 18 Retail Access Date, to take any action against such Electric Utility,
 19 Participating Municipal Utility or Electric Cooperative Corporation as the
 20 Commission deems necessary, including but not limited to, delaying or denying
 21 approval of applications before the Commission by that Electric Utility,
 22 Participating Municipal Utility or Electric Cooperative Corporation.

23 (e) Procedure for Commission Determination. The Commission findings
 24 under subsection (c) of this Section shall be made after a public hearing held
 25 pursuant to the Commission's rules. Notice of such hearing shall be given at
 26 least sixty (60) days but not more than ninety (90) days prior by publication
 27 in a newspaper(s) of general circulation in the State and by mail to each
 28 Electricity Provider and any other Person who, in writing to the Commission,
 29 requests such notice.

30
 31 SECTION 5. CONSUMER PROTECTION.

32 (a) Protections. To protect Consumers, the Commission shall, at a
 33 minimum, take appropriate actions to ensure that:

34 (1) A Consumer shall receive safe and reliable electricity;

35 (2) A Consumer shall receive an accurate and understandable bill;

36 (3) A Consumer shall receive uniform and nondiscriminatory

1 treatment with regard to billing and collection practices;

2 (4) A Consumer shall not have its Electricity Provider changed
3 without the Consumer's informed consent;

4 (5) A Consumer shall be entitled to receive electric service from
5 a supplier as set forth in Section 10 of this Act;

6 (6) A Consumer shall receive sufficient education and information
7 to make an informed choice of Electricity Provider;

8 (7) A Consumer shall receive protection from unfair and
9 unreasonable marketing and sales practices, and from unfair and abusive
10 credit, collection and connection practices; and

11 (8) A Consumer shall have any disputes with Electricity Providers
12 arising under this Act resolved by the Commission as provided by Arkansas Code
13 § 23-3-119.

14 (b) Rules Study. (1) Prior to the Open Retail Access Date, the
15 Commission shall adopt rules appropriate for the implementation of
16 competition. (2) The Commission will, within one year following the Open
17 Retail Access Date, conduct and complete a study of and make any necessary
18 change to its rules regarding Consumer protection to ensure that the same
19 quality of electric service and all necessary Consumer protections against
20 abuses have become available in a restructured electric industry.

21
22 SECTION 6. UNAUTHORIZED SWITCHING.

23 (a) Informed Consent. No Person shall make any change in the
24 Electricity Provider for a Consumer without first obtaining the Consumer's
25 informed consent.

26 (b) Commission Rules. The Commission shall promulgate rules
27 establishing procedures to prevent unauthorized switching and shall
28 investigate any allegations of unauthorized switching. The Commission may
29 adopt criteria for various levels of informed consent applicable to different
30 classes of Consumers.

31 (c) Civil Penalties. Upon finding a violation of this Section, the
32 Commission may impose a civil penalty as provided in Section 20 of this Act.

33
34 SECTION 7. IMPLEMENTATION OF CONSUMER CHOICE.

35 (a) Unbundling. On or before January 1, 2002, each Electric Utility
36 and Electric Cooperative Corporation and each Municipal Utility that intends

1 to participate in a competitive market for electric generation services, shall
2 functionally unbundle its business activities and keep a separate accounting
3 for (1) Generation Assets, services and rates; (2) transmission facilities,
4 services and rates; and (3) distribution facilities, services and rates.
5 Functional unbundling shall be accomplished by creation of separate divisions
6 or departments, nonaffiliated companies, separate affiliate companies owned by
7 a common holding company or through divestiture unless the Commission shall,
8 for good cause shown, allow functional unbundling by other methods. After the
9 Open Retail Access Date, each Electric Utility, Electric Cooperative
10 Corporation and Participating Municipal Utility shall provide unbundled
11 billing for such categories of services to its Customers. The Commission
12 shall adopt appropriate codes of conduct and penalties for violation of the
13 codes of conduct as are necessary to prevent abuses based on preferential
14 access to information and other discriminatory behavior between Affiliates or
15 functionally unbundled business activities.

16 (b) Terms and Conditions. No later than one hundred eighty (180) days
17 prior to the Open Retail Access Date, the Commission shall establish just,
18 reasonable and non-discriminatory terms and conditions for open access to
19 distribution facilities owned or operated by Electric Distribution Companies.

20 (c) Access to Electric Distribution. The Commission by rule shall
21 require each Electric Distribution Company to allow the transfer of
22 electricity, on and after the Open Retail Access Date, from the transmission
23 system across its distribution facilities to provide service to Customers by
24 any Electricity Provider at terms of access and conditions that are just,
25 reasonable and non-discriminatory.

26 (d) Exemption from Regulation. On and after the Open Retail Access
27 Date, the Commission shall not have the authority to set rates or charges for
28 generation services, except as expressly provided in Sections 4 and 10(b) of
29 this Act. With respect to generation facilities, Electricity Providers shall
30 be exempt from Arkansas Code Title 23, Chapter 4. After the Open Retail
31 Access Date, Electricity Providers shall no longer be required to apply for a
32 certificate of convenience and necessity for generation facilities pursuant to
33 Arkansas Code Title 23, Chapter 3, Subchapter 2; however, Electricity
34 Providers shall comply with Arkansas Code Title 23, Chapter 18, Subchapter 5,
35 as amended by this Act, regarding certificates of environmental
36 compatibility.

1
2 SECTION 8. UNIVERSAL ACCESS.

3 (a) Obligation to Connect. After the Open Retail Access Date, each
4 Electric Distribution Company shall be obligated to connect all Customers
5 within its Certificated Area or Service Area and provide Electric Distribution
6 Services to those Customers on nondiscriminatory terms and conditions.

7 (b) Compensation. The Commission shall regulate the rates, terms and
8 conditions of service of Electric Distribution Companies pursuant to the then
9 existing statutory and regulatory guidelines.

10
11 SECTION 9. EXCLUSIVE RIGHT TO PROVIDE ELECTRIC DISTRIBUTION SERVICE.

12 (a) Certificate of Convenience and Necessity. As of the Open Retail
13 Access Date, all certificates of convenience and necessity previously issued
14 by the Commission granting to Electric Utilities or Electric Cooperative
15 Corporations the exclusive right to provide electric service to certain areas
16 of this State shall automatically be converted to certificates of convenience
17 and necessity granting the exclusive right to provide Electric Distribution
18 Services in those same areas and to those same Electric Utilities and Electric
19 Cooperative Corporations as were previously subject to certificates of
20 convenience and necessity.

21 (b) Subsequent Changes. Nothing herein shall prevent the Commission
22 from later granting to Electric Utilities, Electric Cooperative Corporations
23 or Participating Municipal Utilities the exclusive right to provide Electric
24 Distribution Services to additional or different areas of this State upon
25 mutual agreement of the affected parties, or upon dissolution, bankruptcy, or
26 some other event resulting in an Electric Distribution Company being unable to
27 provide Electric Distribution Services to its Customers.

28 (c) Exclusive Area. Notwithstanding any provisions of law or the terms
29 of any certificate of convenience and necessity, franchise, permit, license,
30 or other authority granted to an Electric Utility, Electric Cooperative
31 Corporation or other Person by the state or a municipality, no Electric
32 Utility, Electric Cooperative Corporation, Municipal Utility or other Person
33 shall furnish, or offer to furnish, Electric Distribution Services in any area
34 allocated by the Commission to another Electric Utility, Electric Cooperative
35 Corporation or Participating Municipal Utility. Nothing in this subsection
36 shall be construed to prevent or limit competition in the sale of electricity.

1
2 SECTION 10. SERVICE OBLIGATION.

3 (a) Obligation to Provide Electricity. Each Electric Distribution
4 Company shall be obligated to provide electricity, and shall be the exclusive
5 provider of electricity, to Customers within its Certificated Area or Service
6 Area who have not chosen a supplier of electricity, who have no other supplier
7 of electricity or whose chosen supplier and any chosen alternate supplier fail
8 to provide electricity. An Electric Distribution Company shall be obligated
9 to provide electricity to Customers with loads in excess of one thousand
10 (1,000) kilowatts whose chosen supplier and any chosen alternate supplier fail
11 to provide electricity only to the extent such electricity is available.

12 (b) Tariff Approval. Each Electric Distribution Company shall file
13 with the Commission a tariff, based on its actual cost of electricity plus
14 such other charges which are just, reasonable, nonpreferential and
15 nondiscriminatory, to be applied when the Electric Distribution Company is
16 providing electricity to those Customers who have no other supplier of
17 electricity or whose chosen supplier and any chosen alternate supplier have
18 failed to provide electricity. Such tariff shall be subject to approval by
19 the Commission.

20 (c) Rates Not Subject to Regulation. On and after the Open Retail
21 Access Date, the Commission shall not have the authority to set rates and
22 charges for electric generation service provided by Electric Distribution
23 Companies to Customers who have not chosen a supplier of electricity, except
24 as expressly provided in this Act.

25
26 SECTION 11. REMEDIES. No Electric Distribution Company shall be liable
27 for damages to a current or future Customer if the Customer's chosen
28 Electricity Provider fails to deliver electricity in accordance with the terms
29 of its contract with the Customer. This provision shall not relieve an
30 Electric Distribution Company of liability arising from its own actions or
31 failure to act.

32
33 SECTION 12. STRANDED COSTS.

34 (a) General Provisions.

35 (1) Recovery. Electric Utilities, Electric Cooperative
36 Corporations or Participating Municipal Utilities may recover their Stranded

1 Costs by means of a Stranded Cost Surcharge. However, any money collected by
2 an Electric Utility pursuant to the transition cost account established by the
3 Commission Docket No. 96-360-U shall be applied against and reduce the amount
4 of Stranded Costs before that Electric Utility is entitled to recover under
5 this Section. Any Electric Utility, Electric Cooperative Corporation or
6 Participating Municipal Utility electing not to recover Stranded Costs
7 pursuant to this Section shall be prohibited from recovering any Stranded
8 Costs, and the Commission shall take no action to determine the Stranded
9 Costs, Stranded Cost Surcharge or Recovery Period for such Electric Utility,
10 Electric Cooperative Corporation or Participating Municipal Utility.
11 Notwithstanding any other provision of this Subsection, no Electric Utility,
12 Electric Cooperative Corporation or Participating Municipal Utility which owns
13 transmission facilities in this state or has an Affiliate which owns
14 transmission facilities in this state may recover its Stranded Costs until it
15 or its Affiliate has subjected those transmission facilities to control by an
16 Independent Transmission Entity.

17 (2) Prohibition of Unlawful Charges. No charge purporting to
18 recover Stranded Costs shall be imposed by any Electric Utility, Electric
19 Cooperative Corporation or Participating Municipal Utility unless determined
20 pursuant to this Section. No Electric Utility, Electric Cooperative
21 Corporation or Participating Municipal Utility shall impose a Stranded Cost
22 Surcharge which is unjust or unreasonable or unduly preferential or
23 discriminatory.

24 (3) Mitigation. An Electric Utility, Electric Cooperative
25 Corporation or Participating Municipal Utility seeking to recover Stranded
26 Costs shall pursue all reasonable means to reduce its potential Stranded Costs
27 and to obtain the benefits of the highest reasonably attainable value for
28 Generation Assets and contracts, including the exploration of all reasonable
29 and lawful opportunities to reduce the cost to ratepayers of contracts with
30 Qualifying Facilities. Provided, however, that nothing herein shall allow the
31 Commission to require the divestiture of any assets or contracts in order to
32 mitigate Stranded Costs. In considering an application to impose a Stranded
33 Cost Surcharge, the Commission shall determine all feasible measures by which
34 Stranded Costs could be reduced and ensure that the surcharge is reduced by
35 the value of all such measures, whether or not the Electric Utility, Electric
36 Cooperative Corporation or Participating Municipal Utility elects to

1 effectuate such measures.

2 (4) Collection of Stranded Costs. A Person who is a Consumer of
3 an Electricity Provider after the Open Retail Access Date and (A) whose
4 current Premises, prior to the Open Retail Access Date, were serviced by and
5 located within the Allocated Territory of an Electric Utility, Electric
6 Cooperative Corporation or Participating Municipal Utility or (B) whose
7 current Premises are being serviced by and are located within the Allocated
8 Territory of such an Electric Utility, Electric Cooperative Corporation or
9 Participating Municipal Utility, shall be subject to the Stranded Cost
10 Surcharge of that Electric Utility, Electric Cooperative Corporation or
11 Participating Municipal Utility. In addition, a Consumer of an Electricity
12 Provider after the Open Retail Access Date and (C) whose current Premises,
13 prior to the Open Retail Access Date, were serviced by and located within the
14 Allocated Territory of an Electric Cooperative Corporation which purchased
15 power from a Generation and Transmission Electric Cooperative Corporation or
16 (D) whose current Premises are being serviced by and are located within the
17 Allocated Territory of such an Electric Cooperative Corporation, shall be
18 subject to the Stranded Cost Surcharge of the Generation and Transmission
19 Electric Cooperative Corporation which provided electricity to such Electric
20 Cooperative Corporation. Any Stranded Cost Surcharge shall be apportioned
21 among Customer classes as determined by the Commission. Each Electric
22 Distribution Company shall collect and remit, as agent for an Electricity
23 Provider, an applicable Stranded Cost Surcharge from any Consumer which is
24 subject to such a surcharge and to which it provides Electric Distribution
25 Services. All sums collected by an Electric Distribution Company as agent for
26 an Electricity Provider shall be paid over to the Electricity Provider
27 entitled thereto within the calendar month following the month in which they
28 were collected.

29 (5) Use. Stranded Costs recovered by an Electric Utility,
30 Electric Cooperative Corporation or Participating Municipal Utility may only
31 be applied to existing debt obligations or internal costs. Recovered Stranded
32 Costs may not be used to acquire the assets of or to merge with another
33 Electric Utility, Electric Cooperative Corporation or Municipal Utility. An
34 Electric Utility, Electricity Cooperative Corporation or Participating
35 Municipal Utility which receives Stranded Costs and acquires assets of an
36 Electric Distribution Company cannot receive a rate of return on those

1 distribution assets in an amount greater than the regulatory rate of return
2 based on the book value of those assets.

3 (b) Commission Regulation.

4 (1) Rules. The Commission shall promulgate such rules as may be
5 required to effectuate the recovery of Stranded Costs.

6 (2) Review. Any application for approval of Stranded Costs, a
7 Stranded Cost Surcharge or, a Recovery Period must be filed with the
8 Commission on or before such date as the Commission determines. The
9 Commission shall, after notice and hearing, enter an order on such application
10 not later than ten (10) months following the date the application is filed
11 with the Commission.

12 (3) Date Obligation Incurred. Notwithstanding any other
13 provision of this Act, the Commission may not include any costs for
14 obligations incurred on or after December 12, 1997, in the Stranded Costs of
15 an Electric Utility, Electric Cooperative Corporation or Participating
16 Municipal Utility.

17 (4) Approval. In the event that the Commission determines that
18 the Stranded Costs, Stranded Cost Surcharge or Recovery Period proposed by an
19 Electric Utility, Electric Cooperative Corporation or Participating Municipal
20 Utility is unjust, unreasonable or unduly preferential or discriminatory, the
21 Commission shall determine whether Stranded Costs are recoverable and if so,
22 fix just and reasonable Stranded Costs, a Stranded Cost Surcharge and Recovery
23 Period.

24 (c) Reevaluation. Upon finding that an event has occurred which was
25 not previously considered by the Commission in its determination of Stranded
26 Costs under this Subsection 12 and which could result in the recovery of
27 substantially insufficient or substantially excessive Stranded Costs, the
28 Commission may require the Electric Utility, Electric Cooperative Corporation
29 or Participating Municipal Utility to reapply for approval of its Stranded
30 Costs, Stranded Cost Surcharge or Recovery Period. Any such reevaluation
31 proceeding must be initiated no later than January 1, 2006. The Commission
32 shall enter a final appealable order resolving any such reevaluation
33 proceeding within 10 months of the date of the order initiating such
34 proceeding. No Electric Utility, Electric Cooperative Corporation or
35 Participating Municipal Utility shall have its Stranded Costs reevaluated more
36 than one time.

1 (d) Reconciliation. The Commission shall annually adjust the rate of
2 any Stranded Cost Surcharge to ensure the exact recovery of the Stranded Costs
3 determined pursuant to Subsection 12(b) or 12(c).

4
5 SECTION 13. TRANSITION COSTS.

6 (a) General Provisions. An Electric Utility, Electric Cooperative
7 Corporation or Participating Municipal Utility shall be allowed to recover,
8 during a period of time ending thirty-six (36) months after the Open Retail
9 Access Date, Transition Costs as may be determined by the Commission through a
10 rider or non-bypassable surcharge. Transition Costs riders or surcharges will
11 be subject to annual review by the Commission and costs included therein shall
12 be prudent, reasonably known and measurable.

13 (b) Annual Adjustment. The Commission may annually adjust the level of
14 the rider or non-bypassable surcharge to ensure the recovery of
15 undercollections from the previous year and the refund of overcollections from
16 the previous year.

17
18 SECTION 14. MUNICIPAL UTILITIES.

19 (a) Option to Participate. A Municipal Utility, may elect to become a
20 Participating Municipal Utility and to participate in a competitive market for
21 electric generation services the same as an Electric Utility or Electric
22 Cooperative Corporation by registering with the Commission pursuant to Section
23 15 of this Act. Upon registering, a Participating Municipal Utility becomes
24 subject to this Act and shall be in all respects subject to the jurisdiction,
25 supervision, regulation, and control of the Commission to the same extent and
26 in the same manner as an Electric Utility or Electric Cooperative Corporation
27 and may not thereafter rescind or terminate its certificate of authority or
28 elect not to participate in a competitive market. A Participating Municipal
29 Utility shall be granted the exclusive right to provide Electric Distribution
30 Services in its Service Area.

31 (b) Service Area. A Municipal Utility, whether or not it participates
32 in a competitive market for electric generation services by registering with
33 the Commission, is prohibited from providing Electric Distribution Services to
34 Customers outside its Service Area. Notwithstanding the foregoing, Municipal
35 Utilities may contract with an Electric Distribution Company for the Municipal
36 Utility to provide Electric Distribution Services within that company's

1 Certificated Area.

2 (c) Exclusive Provider. A Municipal Utility that does not register
3 with the Commission may prohibit Electricity Providers from serving Customers
4 within its Service Area and shall not broker, market, aggregate or sell
5 electricity to Customers outside its Service Area.

6
7 SECTION 15. ELECTRICITY PROVIDERS.

8 (a) Registration. As a condition of the right to provide electricity
9 in the State on and after the Open Retail Access Date, each Electricity
10 Provider shall register with and obtain a certificate of authority from the
11 Commission, providing such information and such assurances of ability to
12 perform as the Commission shall require by rule. Upon proper registration and
13 compliance with the rules of the Commission, the Commission shall issue to the
14 Electricity Provider a certificate of authority to operate as an Electricity
15 Provider in this state. The Commission may require an Electricity Provider
16 which did not provide electricity in this State prior to the effective date of
17 this Act to post a performance bond. The Commission shall maintain a current
18 listing of Electricity Providers who have registered and been issued a
19 certificate of authority.

20 (b) Certification of Compliance. Each Electricity Provider shall
21 certify to the Commission that it or its Affiliate has subjected its
22 transmission facilities to control by an Independent Transmission Entity prior
23 to being issued a certificate of authority.

24 (c) Suspension or Revocation of Certificate of Authority. In addition
25 to other penalties under this Act or other law, the Commission may suspend or
26 revoke the certificate of authority of any Electricity Provider which is found
27 to have violated any provision of this Act, any other state law or any rule of
28 the Commission.

29 (d) Injunction. The Commission shall have the right, in the chancery
30 court of any jurisdiction in which an Electricity Provider operates, to seek
31 an injunction, upon affidavit and without bond, restraining and prohibiting
32 the Electricity Provider from continued violation of any provision of this
33 Act.

34 (e) Unauthorized Providers. Any Person which provides or offers to
35 provide electricity within this State in violation of this Act shall be
36 subject to a civil penalty as provided in Section 20 hereof.

1
2
3 SECTION 16. AGGREGATION.

4 (a) Aggregators. Any Person may act as an aggregator of electricity. A
5 Customer may, but is not required to, aggregate the Customer's usage of
6 electricity with other Customers to purchase electricity.

7 (b) Public Entities. Notwithstanding any other law, a municipality,
8 political subdivision, or membership association may serve as a voluntary
9 aggregator for the Customers within its boundaries or membership. A
10 municipality or political subdivision shall provide a Customer within the
11 municipality or political subdivision the opportunity to participate in the
12 aggregation, but may not require the Customer to participate.

13
14 SECTION 17. RELIABILITY.

15 (a) Reliability Organizations. In order to assure reliability of the
16 supply of electricity in this State, all Electricity Providers shall be
17 required to comply with applicable requirements of such national and regional
18 organizations responsible for development and implementation of electric
19 reliability standards as the Commission shall designate. Each Electricity
20 Provider shall file with the Commission evidence of membership in such
21 organizations and a certificate of compliance with applicable reliability
22 requirements at such time and in such form as the Commission shall prescribe.

23 (b) Commission Regulation of Reliability. The Commission shall
24 promulgate such rules regarding Electricity Providers in this state as it
25 finds may be required to assure reliability of service to Consumers.

26
27 SECTION 18. EFFECTIVE COMPETITION.

28 (a) Commission Monitoring. The Commission shall monitor the Retail
29 market to ensure effective competition in the supply of electricity to
30 Customers and shall take steps as set forth in this Section to prevent anti-
31 competitive or discriminatory conduct or the exercise of market power.

32 (b) Determination of Effective Competition. Effective competition with
33 respect to the sale of electricity shall mean, at a minimum, that an
34 individual Electricity Provider is not able to influence significantly the
35 Retail price of electricity as a result of:

- 36 (1) Dealing with Affiliates;

1 (2) The number of Electricity Providers;

2 (3) The size of each Electricity Provider's market share;

3 (4) The ability of other Electricity Providers to enter or exit
4 the market; and

5 (5) The Retail price and availability of comparable substitutes
6 for electricity.

7 (c) Rules. The Commission shall establish rules which define anti-
8 competitive or discriminatory conduct and the exercise of market power.

9 (d) Investigations and Remedies.

10 (1) Upon a complaint or upon its own motion, after notice and
11 hearing, the Commission may conduct an investigation of the impact on
12 effective competition in the market of actions such as, but not limited to,
13 mergers, consolidations, acquisition or disposition of assets, transmission
14 congestion or anti-competitive or discriminatory conduct.

15 (2) The Commission may require any Person to provide information,
16 including documents and testimony, in accordance with the Commission's rules.

17 (3) The Commission shall utilize the least restrictive and
18 burdensome means to remedy anti-competitive conduct, discriminatory conduct or
19 market power abuses, and shall narrowly tailor any remedy for that purpose.

20 (e) Referral. If the Commission has reason to believe that anti-
21 competitive or discriminatory conduct is preventing Customers in this state
22 from receiving the benefits of effective competition or determines that any
23 order pursuant to this Section is inadequate to ensure that Customers in this
24 state receive the benefits of effective competition, the Commission shall:

25 (1) Refer its findings to the Arkansas Attorney General, the
26 United States Department of Justice, the Securities and Exchange Commission,
27 the Federal Trade Commission, or the Federal Energy Regulatory Commission, as
28 appropriate; and

29 (2) Disclose any information it has obtained in the course of its
30 investigation to the agency or agencies to which it has made a referral.

31 (f) Antitrust Laws. It is intended that all state and federal
32 antitrust and consumer protection laws shall apply to Electricity Providers
33 and nothing herein shall affect the applicability of any such state or federal
34 antitrust law. A Commission investigation or proceeding pursuant to this
35 Section shall not be required prior to any Person initiating an action or
36 proceeding under state or federal anti-trust or consumer protection laws.

SECTION 19. COMMISSION RESPONSIBILITIES AND RULEMAKING.

(a) Rules. The Commission shall adopt rules to implement and enforce the provisions of this Act.

(b) Jurisdiction. The Commission shall have jurisdiction over all Electricity Providers in enforcing this Act.

(c) Discontinued Service. The Commission shall promulgate rules establishing procedures as to how and when an Electricity Provider may discontinue service to a Person due to the Person's nonpayment and procedures relating to the reconnection.

(d) No Other Competitive Services. Nothing in this Act shall authorize the Commission to make competitive any services other than the purchase of electricity as provided in Section 4 herein.

SECTION 20. PENALTIES.

(a) Civil Penalties. In addition to any other action provided for herein, the Commission, upon finding a violation of this Act by any Person, shall have the authority to impose a civil penalty not to exceed one thousand dollars (\$1,000) per violation. For purposes of this Section, each day of a violation with respect to each Consumer shall constitute a separate violation.

(b) Judgment. Unless the penalty amount is paid within sixty (60) days after the order of the Commission becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as any other judgment of a court of record.

(c) Suspension or Revocation of Certificate of Convenience and Necessity. The Commission may suspend or revoke the certificate of convenience and necessity of any Electric Distribution Company which is found to have violated any provision of this Act, any other state law or any rule of the Commission.

SECTION 21. BI-ANNUAL REPORT TO GENERAL ASSEMBLY. Before January 1, 2003, and thereafter before January 1, 2005 and January 1, 2007, the Commission shall report to the General Assembly on the progress of the implementation of competition and restructuring in the electric industry and its impact, if any, on Consumers. At a minimum, the report shall include:

1 (a) an assessment of the impact of competition on the rates and
 2 availability of electric services to Customers;

3 (b) a summary of Commission action during the preceding two years with
 4 respect to restructuring of the electric industry;

5 (c) a summary of complaints received from Customers relating to
 6 restructuring during the preceding two years and actions taken to resolve such
 7 complaints; and

8 (d) recommendations to the General Assembly for additional legislation
 9 that the Commission finds appropriate to promote the public interest in a
 10 competitive electric market.

11
 12 SECTION 22. Title 23, Chapter 18, Subchapter 1 of the Arkansas Code of
 13 1987 is in conflict with this Act and is repealed.

14 ~~23-18-101. Areas of service.~~

15 ~~Notwithstanding any provisions of law or the terms of any certificate of~~
 16 ~~convenience and necessity, franchise, permit, license, or other authority~~
 17 ~~granted to a public utility or electric cooperative corporation by the state~~
 18 ~~or a municipality, no public utility or electric cooperative corporation shall~~
 19 ~~furnish, or offer to furnish, electric service at retail and not for resale in~~
 20 ~~any area allocated by the Arkansas Public Service Commission to another~~
 21 ~~electric cooperative corporation or public utility.~~

22 ~~23-18-102. Agreements between rural cooperatives and other electric~~
 23 ~~suppliers permitted. Nothing in this section or — 23-3-201, 23-18-101, 23-~~
 24 ~~18-301, 23-18-308, or 23-18-331 shall be construed to prohibit or prevent a~~
 25 ~~rural electric cooperative corporation and another supplier of electric~~
 26 ~~service from entering into and carrying out a voluntary agreement for the~~
 27 ~~exchange of facilities.~~

28 ~~23-18-103. Purchase of electricity from affiliated company.~~

29 ~~(a) As used in this section, unless the context otherwise requires:~~

30 ~~(1) "Affiliated company" means any business entity which is owned~~
 31 ~~wholly or partly by an electric utility or which wholly or partly owns an~~
 32 ~~electric utility, or any business entity which is owned by another business~~
 33 ~~entity which wholly or partly owns an electric utility;~~

34 ~~(2) "Electric utility" means an electric utility subject to the~~
 35 ~~jurisdiction of the Arkansas Public Service Commission.~~

36 ~~(b) Without the prior approval of the Arkansas Public Service~~

1 ~~Commission, no electric utility shall enter into any agreement for the~~
2 ~~purchase of electricity from an affiliated company.~~

3 ~~(c) Any agreement entered into in violation of this section shall be~~
4 ~~void.~~

5 ~~(d) The Arkansas Public Service Commission shall promulgate such~~
6 ~~regulations as are necessary to implement this section.~~

7 ~~(e) This section shall apply to agreements entered into on or after~~
8 ~~June 28, 1985.~~

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

11 ~~(a) No public utility subject to the jurisdiction of the Arkansas~~
12 ~~Public Service Commission shall commence construction of any power-generating~~
13 ~~facility to be located outside the boundaries of this state without the~~
14 ~~express written approval of the Arkansas Public Service Commission.~~

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

19 ~~(c) Failure on the part of any public utility to obtain prior approval~~
20 ~~of the commission, as established in this section, shall constitute grounds~~
21 ~~for disallowance, by the commission, of all costs and expenses associated with~~
22 ~~the construction and subsequent operation of the facility when computing the~~
23 ~~utility's cost of service for purposes of any rate-making proceedings.~~

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

28 ~~23-18-105. Use of Arkansas-mined coal.~~

29 ~~(a) To the extent that it is technically, economically, and~~
30 ~~environmentally feasible, all electric utilities in Arkansas providing~~
31 ~~electric power for sale to consumers in Arkansas and generating electric power~~
32 ~~from coal-fired plants located in Arkansas shall burn a mixture of coal that~~
33 ~~contains a minimum of:~~

34 ~~(1) Three percent (3%) Arkansas-mined coal as calculated on a~~
35 ~~British Thermal Unit (BTU) basis from January 1, 1988, until December 31,~~
36 ~~1988;~~

1 ~~(2) Six percent (6%) Arkansas-mined coal as calculated on a~~
 2 ~~British Thermal Unit (BTU) basis from January 1, 1989, until December 31,~~
 3 ~~1989; and~~

4 ~~(3) Ten percent (10%) Arkansas-mined coal as calculated on a~~
 5 ~~British Thermal Unit (BTU) basis each calendar year after January 1, 1990.~~

6 ~~(b)(1)(A) No electric utility shall be required to comply with this~~
 7 ~~section if to do so would result in increasing the cost of electricity to its~~
 8 ~~consumers over the cost incurred to serve them under existing or alternative~~
 9 ~~coal purchase arrangements.~~

10 ~~(B) Types of increased costs to be considered in addition~~
 11 ~~to the cost of the coal include, but are not limited to:~~

12 ~~(i) Plant modifications;~~

13 ~~(ii) Additional coal-handling facilities;~~

14 ~~(iii) Additional environmental cost necessary to burn~~
 15 ~~Arkansas coal; or~~

16 ~~(iv) Any other costs or penalties which may be~~
 17 ~~incurred as a result of burning Arkansas coal.~~

18 ~~(2) No public utility shall be required to comply with this~~
 19 ~~section if to do so would result in the utility exceeding any of its state or~~
 20 ~~federal air quality emission standards or any other conditions of its~~
 21 ~~environmental permits.~~

22 ~~(3) No public utility shall be required to comply with the~~
 23 ~~provisions of this section if to do so would result in the utility being~~
 24 ~~unable to fulfill any existing contractual commitments for the purchase of~~
 25 ~~coal or result in the purchase of a quantity of Arkansas coal above the amount~~
 26 ~~the utility can utilize.~~

27 ~~(c) It shall be the responsibility of the Arkansas Public Service~~
 28 ~~Commission to enforce compliance with the requirements of this section.~~

29
 30 SECTION 23. Arkansas Code 23-18-302(8) is repealed.

31 ~~(8) "Rural area" means any area not included within the boundaries of~~
 32 ~~any incorporated or unincorporated city, town, or village having a population~~
 33 ~~in excess of two thousand five hundred (2,500) inhabitants and includes both~~
 34 ~~the farm and nonfarm population thereof. The determination of a rural area~~
 35 ~~shall be made as of the time the Arkansas Public Service Commission or~~
 36 ~~predecessor commission or Department of Public Utilities grants a certificate~~

1 ~~of convenience and necessity to a rural electric cooperative corporation~~
 2 ~~organized under this subchapter. The corporation shall not be ousted from~~
 3 ~~service in the rural area or deprived of the right to continue to provide~~
 4 ~~electric service in the rural area subsequent to the granting of a certificate~~
 5 ~~of convenience and necessity by the Arkansas Public Service Commission.~~

6
 7 SECTION 24. Arkansas Code 23-18-306 is amended to read as follows:
 8 "23-18-306. Purposes of cooperatives.

9 (a) Organization. Cooperative, nonprofit, membership corporations may
 10 be organized under this subchapter for the purpose of ~~engaging in rural~~
 11 ~~electrification by~~ any one (1) or more of the following ~~methods~~:

12 (1) The furnishing of ~~electric energy~~ electricity to persons ~~in~~
 13 ~~rural areas who are not receiving central station service;~~

14 (2) Assisting in the wiring of the premises of persons in rural
 15 areas or the acquisition, supply, or installation of electrical or plumbing
 16 equipment therein;

17 (3) The furnishing of ~~electric energy~~ electricity, wiring
 18 facilities, or electrical or plumbing equipment or services to any other
 19 corporation organized under this subchapter or to the members thereof.

20 (b) Powers. Once properly organized pursuant to Subsection (a)
 21 hereof, a corporation may engage in any other lawful business activity,
 22 directly or through one or more affiliates, which its Board of Directors
 23 determines to be beneficial to its members or non-members."

24
 25 SECTION 25. Arkansas Code 23-18-307(4) is amended to read as follows:

26 "(4) To generate, manufacture, purchase, acquire, ~~and~~ accumulate,
 27 ~~electric power and energy and to transmit, distribute, sell, furnish, and~~
 28 ~~dispose of electric power and energy in areas allocated to rural electric~~
 29 ~~cooperative corporations but not to customers of regulated utilities in~~
 30 ~~territories allocated to or served by regulated utilities;"~~

31
 32 SECTION 26. Arkansas Code 23-18-307(6) is amended to read as follows:

33 "(6) To enter into sale or interchange agreements for surplus power and
 34 energy ~~only~~ with any and all other persons, ~~individual corporations~~ business
 35 entities, or public bodies or agencies, ~~including any federal agency or any~~
 36 ~~agency of the state or city governments or any subdivision of state, county,~~

1 ~~or city government.~~ The electric power and energy may be resold at wholesale
 2 or retail and may be sold or disposed of by the other party to the agreement
 3 as provided in the contract or agreement, ~~provided that the other party to any~~
 4 ~~sale or interchange agreement shall covenant and agree that the surplus power~~
 5 ~~and energy shall not be interchanged, consumed, or resold in territories or to~~
 6 ~~customers served by regulated utilities, except that this restriction shall~~
 7 ~~not apply to the United States Department of the Interior or any successor~~
 8 ~~marketing agency for electric power and energy thereof subject to the~~
 9 ~~provisions covered by _ 5 of the Flood Control Act of 1944; "~~

10
 11 SECTION 27. Arkansas Code 23-18-307 is amended by adding the following:
 12 "(23) To engage in any lawful business activity."

13
 14 SECTION 28. Arkansas Code 23-18-318(a)(1) is amended to read as follows:
 15 "(a)(1) All persons in rural areas proposed to be served by a
 16 corporation, who are not receiving central station service, shall be eligible
 17 to membership in a corporation."

18
 19 SECTION 29. Arkansas Code 23-18-330 is amended to read as follows:
 20 "23-18-330. Exemptions from Securities Act.

21 Whenever any corporation organized under this subchapter shall have
 22 borrowed money from any federal agency, the obligations issued to secure the
 23 payment of such money shall be exempt from the provisions of the ~~Securities~~
 24 ~~Act, Acts 1947, No. 397, as amended [repealed], neither shall the Arkansas~~
 25 Securities Act, as amended. The provisions of that act the Arkansas
 26 Securities Act shall not apply to the issuance of membership certificates by
 27 any corporation organized under this subchapter."

28
 29 SECTION 30. Arkansas Code 23-18-331 is amended to read as follows:
 30 "23-18-331. Service in incorporated areas.

31 (a)(1) The inclusion by incorporation, annexation, or otherwise of any
 32 portion of a rural area, ~~as defined in this subchapter, assigned to~~
 33 corporations, within the limits of an incorporated or unincorporated city,
 34 town, or village, regardless of its population, shall not in any respect
 35 impair or affect the rights of the corporations under their certificates of
 36 convenience and necessity to continue and extend electric service in the

1 included areas.

2 (2) Notwithstanding any other provisions of law, the corporations shall
3 be entitled to continue and extend service therein under the same terms and
4 conditions as those contained in the franchise or indeterminate permit of any
5 other supplier of electric service in the city, town, or village the same as
6 though it were a party to the franchise or indeterminate permit.

7 (b)(1) ~~A rural electric cooperative~~ corporation which serves an area
8 within the limits of any municipality under the terms of this subchapter shall
9 as to that area be subject in all respects to the jurisdiction of the Arkansas
10 Public Service Commission to the same extent and in the same manner as a
11 ~~commercial electric utility serving within the municipality~~ it is subject to
12 such jurisdiction in areas outside the limits of municipalities.

13 (2) Any such city, town, or village shall have the same authority to
14 impose taxes, charges, or fees in respect to the business of a corporation
15 conducted within the corporate limits of such city, town, or village as it has
16 in respect to business conducted by other suppliers of electric service.

17 ~~(c) Where a corporation continues and extends its electric service in~~
18 ~~areas which are so included within the limits of a city, town, or village~~
19 ~~which is also receiving electric service at retail from another supplier of~~
20 ~~the service, the retail rates charged by a corporation to its various classes~~
21 ~~of consumers shall be comparable to those charges by such other supplier for~~
22 ~~comparable retail service to comparable classes of consumers.~~

23 ~~(d) Nothing in this section shall in any manner restrict or impair the~~
24 ~~right of any municipality to acquire, construct, expand, maintain, or operate~~
25 ~~any electric generation, transmission, or distribution facilities within the~~
26 ~~corporate limits of the city, town, or village in Arkansas as such limits may~~
27 ~~now exist or as such limits may exist upon the extension or expansion of the~~
28 ~~city limits of the city, town, or village."~~

29

30 SECTION 31. Certain portions of the following laws, to the extent they
31 apply to the sale of electricity or the regulation of Electricity Providers,
32 are in conflict with this Act and such portions are hereby repealed: Arkansas
33 Code 23-2-304; Arkansas Code 23-2-306; Arkansas Code 23-2-307; Arkansas Code
34 23-2-314; Arkansas Code 23-3-101; Arkansas Code 23-3-102; Arkansas Code 23-3-
35 103; Arkansas Code 23-3-104; Arkansas Code 23-3-105; Arkansas Code 23-3-106;
36 Arkansas Code 23-3-114; Arkansas Code 23-3-117; Arkansas Code 23-3-118;

1 Arkansas Code Title 23, Chapter 3, Subchapter 4; Arkansas Code Title 23,
2 Chapter 4, Subchapters 1, 2, 4, and 5; and Arkansas Code 23-18-308.

3
4 SECTION 32. All provisions of this act of a general and permanent
5 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
6 Code Revision Commission shall incorporate the same in the Code.

7
8 SECTION 33. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

13
14 SECTION 34. All laws and parts of laws in conflict with this act are
15 hereby repealed.