

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015

# A Bill

SENATE BILL 727

4  
5 By: Senator Rice  
6 By: Representative Baine

## For An Act To Be Entitled

9 AN ACT TO MODIFY THE REGULATION OF PUBLIC UTILITIES  
10 BY THE ARKANSAS PUBLIC SERVICE COMMISSION; TO DECLARE  
11 AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

15 TO MODIFY THE REGULATION OF PUBLIC  
16 UTILITIES BY THE ARKANSAS PUBLIC SERVICE  
17 COMMISSION; AND TO DECLARE AN EMERGENCY.

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19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 23-3-505(b), concerning a hearing by the  
23 Arkansas Public Service Commission, is amended to read as follows:

24 (b) The ~~Unless waived by the parties, the~~ hearing shall be held in the  
25 offices of the commission or at such other place as the commission may  
26 designate.

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28 SECTION 2. Arkansas Code § 23-4-501 is amended to read as follows:

29 23-4-501. Legislative findings and intent ~~- Authority to recover costs~~  
30 through interim rate schedule.

31 (a) It is recognized that legislative or administrative rules,  
32 regulations, or requirements impose certain legal ~~requirements~~ obligations  
33 upon public utilities relating to the protection of the public health,  
34 safety, or the environment, and that:

35 (1) In order to comply with such legislative or ~~regulatory~~  
36 administrative rules, regulations, or requirements, utilities ~~are required to~~



1 ~~must~~ make ~~substantial additional~~ investments or incur ~~additional~~ expenses  
2 with respect to existing facilities used and useful in providing service to  
3 the utility's customers; and

4 (2) Although such ~~additional~~ investments and expenses are  
5 necessary ~~in order~~ to provide service to ~~the utility's~~ utility customers,  
6 such ~~additional~~ investments and expenses, when made, are not included in ~~the~~  
7 ~~utility's~~ utility rates and ~~cannot be recovered in a prompt and timely~~  
8 ~~fashion under existing regulatory procedures.~~

9 (b)(1) ~~It is intended by the General Assembly that~~ Public utilities be  
10 ~~permitted to~~ shall recover in a prompt and timely manner all ~~such costs~~  
11 investments and expenses not currently being recovered in existing rates that  
12 are incurred by utilities ~~in order~~ to comply with ~~such~~ legislative or  
13 ~~regulatory~~ administrative rules, regulations, or requirements relating to the  
14 protection of the public health, safety, or the environment through an  
15 interim surcharge which, if approved, shall be effective until the  
16 implementation of new rate schedules in connection with the next general rate  
17 filing of the public utility ~~wherein~~ in which such ~~additional~~ investments or  
18 expenses can be included in the utility's base rate schedules.

19 (2) However, the costs to be recovered through such an interim  
20 surcharge described in subdivision (b)(1) of this section shall not include  
21 increases in the cost for employment compensation or benefits as a result of  
22 legislative or regulatory action.

23 (c)(1) A public utility shall be permitted to recover, through an  
24 interim surcharge, the allowance for funds used during construction that  
25 would otherwise be accrued and capitalized that is incurred during the  
26 construction of facilities and equipment required for compliance with such  
27 legislative or administrative rules, regulations, or requirements provided  
28 that any such allowance for funds used during construction have not been  
29 capitalized or otherwise included in the utility's currently effective rates.

30 (2) The public utility shall not capitalize or otherwise recover  
31 through rates any allowance for funds used during construction incurred in  
32 connection with investments described in subdivision (c)(1) of this section  
33 when the associated financing costs are included in an interim surcharge.

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35 SECTION 3. Arkansas Code § 23-4-502 is amended to read as follows:  
36 23-4-502. Filing interim rate schedule.

1       ~~Any~~ A public utility as defined in § 23-1-101 may recover all ~~costs~~  
2 investments and expenses that are not already included in the public  
3 utility's currently effective rates and were reasonably incurred by ~~such a~~  
4 the public utility as a direct result of legislative or ~~regulatory~~  
5 administrative rules, regulations, or requirements relating to the protection  
6 of the public health, safety, ~~and~~ or the environment by filing with the  
7 Arkansas Public Service Commission, no more frequently than ~~once~~ one (1) time  
8 every six (6) months, an interim rate schedule ~~which~~ that would impose a  
9 separate surcharge in addition to its currently effective rates until the  
10 implementation of new rate schedules in connection with the next general rate  
11 filing of the public utility ~~wherein~~ in which such ~~additional expenditures~~  
12 investments and expenses can be included in the public utility's base rate  
13 schedules.

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15       SECTION 4. Arkansas Code § 23-4-503 is amended to read as follows:  
16       23-4-503. Calculation of ~~amount of~~ interim surcharge.

17       The amount of the interim surcharge to be added to the public utility's  
18 rates shall be calculated so as to produce annual revenues equal to the  
19 additional annualized revenue requirement to which the public utility would  
20 be entitled had the ~~additional expenditures~~ investments and expenses  
21 described in § 23-4-501 been included in the public utility's most recent  
22 rate determination by the Arkansas Public Service Commission.

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24       SECTION 5. Arkansas Code § 23-4-507(a), concerning modification and  
25 disapproval of surcharges by the Arkansas Public Service Commission, is  
26 amended to read as follows:

27       (a) After its investigation and hearing thereon, the Arkansas Public  
28 Service Commission may modify or disapprove all or any portion of the  
29 surcharge upon a finding that:

30               (1) ~~The expenditures were not made for the purposes set forth in~~  
31 ~~§ 23-4-501~~ investments or expenses were not incurred to comply with  
32 legislative or administrative rules, regulations, or requirements relating to  
33 the protection of the public health, safety, the environment, or were not  
34 reasonably incurred, or were not substantiated;

35               (2) The amount of the surcharge has been erroneously calculated;

36 ~~or~~



1 result of legislative or administrative rules, regulations, or requirements  
2 relating to the protection of the public health, safety, or the environment;  
3 and that this act is immediately necessary to facilitate the timely recovery  
4 of investments and expenses so that public utilities may provide services to  
5 consumers in this state in a timely, efficient, and cost-effective manner.  
6 Therefore, an emergency is declared to exist, and this act being immediately  
7 necessary for the preservation of the public peace, health, and safety shall  
8 become effective on:

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

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

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

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