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4

# 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: Representative Eaves  
8

## For An Act To Be Entitled

9  
10 AN ACT TO AMEND THE LAW CONCERNING PUBLIC UTILITIES;  
11 TO CREATE THE GENERATING ARKANSAS JOBS ACT OF 2025;  
12 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
13  
14

## Subtitle

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

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

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

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

33 SECTION 2. Arkansas Code § 23-3-201(b), concerning when a certificate  
34 of public convenience is not required, is amended to add additional  
35 subdivisions to read as follows:

36 (3)(A) A public utility shall provide notice to the commission



1 of the public utility's intent to recover any strategic investments that are  
 2 subject to this subchapter through a rider under the Generating Arkansas Jobs  
 3 Act of 2025, § 23-4-1301 et seq. as part of the public utility's application  
 4 under this subchapter.

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

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

12 (i) The public utility from voluntarily seeking the  
 13 issuance of a certificate of public convenience and necessity under this  
 14 section; or

15 (ii) The commission from:

16 (a) Granting the public utility the  
 17 certificate of public convenience and necessity sought under subdivision  
 18 (d)(1) of this section; and

19 (b) Allowing the public utility to seek  
 20 recovery of the reasonable cost of the equipment or facilities through rates.

21  
 22 SECTION 3. Arkansas Code § 23-3-201, concerning requirements for a  
 23 certificate of public convenience and necessity, is amended to add an  
 24 additional subsection to read as follows:

25 (e) As used in this section:

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

28 (2) "Major utility facility" means the same as defined in § 23-  
 29 18-503; and

30 (3) "Strategic investments" means the same as defined in § 23-4-  
 31 1303.

32  
 33 SECTION 4. Arkansas Code Title 23, Chapter 3, Subchapter 2, is amended  
 34 to add an additional section to read as follows:

35 23-3-207. Issuance of certificate of public convenience and necessity.

36 (a) If the Arkansas Public Service Commission determines that granting

1 a certificate of public convenience and necessity is consistent with the  
2 public interest, the commission shall enter an order granting a certificate  
3 of public convenience and necessity within six (6) months after the public  
4 utility submits an application for a certificate of public convenience and  
5 necessity.

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

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

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

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

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

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

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

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

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

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

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

36 (ii) The public utility withdraws its application;

1 or

2 (iii) The public utility appeals the commission's  
3 decision.

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

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

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

16  
17 SECTION 6. Arkansas Code § 23-4-902 is amended to read as follows:  
18 23-4-902. Exemption from rate case procedures, etc.

19 A co-op, ~~as defined in § 23-4-901,~~ shall not be subject to rate case  
20 procedures and hearings ~~and other requirements of §§ 23-4-402 – 23-4-405, 23-~~  
21 ~~4-407 – 23-4-418, and 23-4-620 – 23-4-634 and Arkansas Public Service~~  
22 ~~Commission rules implementary thereof, hereafter referred to as "rate case~~  
23 ~~procedures", by the ~~commission~~ Arkansas Public Service Commission unless:~~

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

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

28 (3) Ten percent (10%) of the co-op's member-consumers petition  
29 the commission to apply rate case procedures, and the commission determines  
30 there is substantial evidence indicating that the rates and charges are  
31 unreasonable; or

32 (4) As otherwise provided in this subchapter.

33  
34 SECTION 7. Arkansas Code § 23-4-903 is amended to read as follows:  
35 23-4-903. Notification of proposed rate change.

36 (a) Each co-op not subject to rate case procedures, at least ninety

1 (90) days before the effective date of any proposed rate change, shall notify  
 2 the Arkansas Public Service Commission and each of its member-consumers of  
 3 the proposed rate change. Notice to the commission shall include a verified  
 4 statement showing the then total number of member-consumers of the co-op.

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

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

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

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

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

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

20  
 21 SECTION 8. Arkansas Code § 23-4-905 is amended to read as follows:

22 23-4-905. Petition for relief from rate change – Effect.

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

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

30 (b) Rates and charges so established shall be in effect for not less  
 31 than one (1) year, subject to the procedure provided for in § 23-4-906. If,  
 32 on or before the effective date of the proposed change in rates and charges,  
 33 the commission has received petitions from ten percent (10%) of the member-  
 34 consumers, then the commission shall notify the co-op that it will initiate  
 35 an investigation and may apply rate case procedures under § 23-4-908.

36

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

2 23-4-907. Commission's jurisdiction not affected.

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

7  
8 SECTION 10. Arkansas Code § 23-4-908 is amended to read as follows:

9 23-4-908. Authority of commission.

10 (a) The Upon receipt of a sufficient number of valid petitions under §  
11 23-4-905, the Arkansas Public Service Commission shall have the authority to  
12 investigate and determine the reasonableness of the change in rates and  
13 charges of each co-op changing its rates and charges pursuant to this  
14 subchapter, within one (1) year of the time of the change in rates and  
15 charges.

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

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

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

26  
27 SECTION 11. Arkansas Code § 23-4-909 is amended to read as follows:

28 23-4-909. Apportionment of rates and charges.

29 (a) Upon receipt of a sufficient number of valid petitions under § 23-  
30 4-905, the Arkansas Public Service Commission may inquire into the  
31 reasonableness of the apportionment of rates and charges by a co-op.

32 (b) When determining how rates and charges established under § 23-4-  
33 903 are to be allocated among different rate classes, a co-op shall endeavor  
34 to apportion the rates and charges in a manner ~~which reflects~~ consistent  
35 with, as closely as practicable, the ~~costs of providing service to each class~~  
36 last approved cost-of-service study.

1  
2 SECTION 12. Arkansas Code § 23-4-1102 is amended to read as follows:  
3 23-4-1102. Exemption from general rate case procedure.

4 A generation and transmission cooperative may modify its rates and  
5 charges if:

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

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

13 (3) Any additional requirements of this subchapter are  
14 satisfied.

15  
16 SECTION 13. Arkansas Code § 23-4-1104(a)(2), concerning alternative  
17 procedures for modifying rates and charges of a generation and transmission  
18 cooperative, is amended to read as follows:

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

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

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

24 (C) A current calculation of the generation and  
25 transmission cooperative's:

26 (i) Times interest earned ratio;

27 (ii) Debt service coverage ratio; and

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

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

33 (E) Documentary evidence that the impact of the proposed  
34 change in rates and charges does not exceed five percent (5%) of the  
35 generation and transmission cooperative's total gross revenues for the  
36 previous ~~calendar year~~ twelve-month period before the generation and

1 transmission cooperative's notice under § 23-4-1103(a)(1);

2 (F) Documentation that shows the derivation of the  
3 generation and transmission cooperative's proposed changes in its rates and  
4 charges; and

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

7 (ii)(a) However, the commission shall not require  
8 the generation and transmission cooperative to prepare a cost-of-service  
9 study.

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

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

17 (a) A member cooperative may propose a modification of its retail  
18 rates and charges to incorporate the proposed change in the generation and  
19 transmission cooperative's wholesale rates and charges filed under § 23-4-  
20 1104 if:

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

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

29  
30 SECTION 15. Arkansas Code § 23-4-1106 is repealed.

31 ~~23-4-1106. Limitation on increase in rates.~~

32 ~~The generation and transmission cooperative shall not increase its~~  
33 ~~rates and charges under this subchapter by an aggregate total of more than~~  
34 ~~eight percent (8%) during any twenty four month period.~~

35  
36 SECTION 16. Arkansas Code Title 23, Chapter 4, is amended to add an



1 additional subchapter to read as follows:  
2

3 Subchapter 13 – Generating Arkansas Jobs Act of 2025  
4

5 23-4-1301. Title.

6 This subchapter shall be known and may be cited as the "Generating  
7 Arkansas Jobs Act of 2025".  
8

9 23-4-1302. Legislative findings.

10 The General Assembly finds that:

11 (1) Significant strategic investments in electric utility  
12 infrastructure and natural gas utility infrastructure are necessary to enable  
13 this state to:

14 (A) Attract and serve economic development projects across  
15 a variety of industries;

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

19 (C) Replace retiring electric generation facilities and  
20 other electric utility infrastructure and natural gas utility infrastructure;

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

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

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

32 (5) Further strategic investments in electric utility  
33 infrastructure are needed to support the license extension for existing  
34 nuclear generation resources and ensure that electric utilities maintain  
35 adequate dispatchable generation resources to support reliable service for  
36 their customers;

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

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

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

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

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

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

30           (12) Regulatory reform is required to keep pace with the  
31 evolving industry and help ensure that electric utilities and natural gas  
32 utilities are financially sound and able to make the strategic investments to  
33 continue providing customers safe, reliable, affordable, and sustainable  
34 electric utility service and natural gas utility service; and

35           (13) To support economic development in Arkansas, nothing herein  
36 is intended to develop rates that would unreasonably shift costs from a

1 customer or customer class to other customers in a manner that would result  
 2 in rates that are not just and reasonable, not consistent with applicable  
 3 law, or not in the public interest.

4  
 5 23-4-1303. Definitions.

6 As used in this subchapter:

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

- 8 (i) Materials costs;  
 9 (ii) Labor costs;  
 10 (iii) Labor costs adders;  
 11 (iv) Allowance for funds used during construction;  
 12 (v) Costs associated with third-party vendors and  
 13 consultants;  
 14 (vi) Costs associated with procurement of real  
 15 property rights;  
 16 (vii) Costs associated with securing all necessary  
 17 approvals;  
 18 (viii) Taxes;  
 19 (ix) Tax gross-up charges;  
 20 (x) Capital suspense charges; and  
 21 (xi) Overheads for any strategic investments that  
 22 are not yet complete or in service.

23 (B) "Construction work in progress" includes costs that  
 24 are:

25 (i) Recorded under the requirements of the uniform  
 26 system of accounts adopted by the Arkansas Public Service Commission by rule  
 27 and any applicable accounting guidance issued by the Federal Energy  
 28 Regulatory Commission that are adopted by the Arkansas Public Service  
 29 Commission by rule; and

30 (ii) In conformance with generally accepted  
 31 accounting principles;

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

35 (3) "Electric generation and transmission cooperative" means a  
 36 rural electric cooperative formed under the Electric Cooperative Corporation

1 Act, § 23-18-301 et seq., that:

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

3 (B) Exclusively sells electricity at wholesale;

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

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

12 (6) "Major utility facility" means the same as defined in § 23-  
13 18-503;

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

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

19 (9) "Rider test period" means a historical test period under §  
20 23-4-406 which shall include adjustments identified by the electric utility  
21 or the natural gas utility to a historical test period to reflect the effects  
22 on an annualized basis of a change in circumstances which may occur within  
23 twelve (12) months after the end of the historical test year where the  
24 changes are reasonably known and measurable;

25 (10)(A) "Strategic investments" means investments, either  
26 construction or purchase, and associated operating expenses made by a  
27 electric public utility or natural gas public utility to:

28 (i) Support growth and economic development in this  
29 state, including supporting the development of sites designated as available  
30 for economic development;

31 (ii) Maintain and improve the provision of reliable  
32 electric utility service and natural gas utility service to new and existing  
33 customers in this state;

34 (iii) Support the license extension for existing  
35 nuclear generation resources; and

36 (iv) Ensure that electric utilities maintain

1 adequate dispatchable generation resources to support reliable service for  
2 their customers that is consistent with the resource adequacy requirements  
3 established by the applicable load balancing authority.

4 (B) "Strategic investments" includes without limitation  
5 investments and associated operating expenses associated with:

6 (i) A new electric generating facility, an  
7 associated transportation and storage facility for fuel, and other facilities  
8 designed for or capable of operation at a capacity of one hundred megawatts  
9 (100 MW) or more for a single facility;

10 (ii) An energy storage facility designed for or  
11 capable of operating at a capacity of fifty megawatts (50 MW) or more for a  
12 single facility or a combination of energy storage facilities and an electric  
13 generating facility designed for or capable of operation at a combined  
14 capacity of one hundred megawatts (100 MW) or more for a single facility to  
15 provide service to new and existing customers located in Arkansas;

16 (iii) Upgrades, expansions, or fuel conversions of  
17 existing electric generating facilities and associated transportation and  
18 storage facilities for fuel and other facilities, energy storage facilities,  
19 or any combination thereof to sustain or increase capacity and, therefore,  
20 improve reliability, to provide service to new and existing customers in  
21 Arkansas;

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

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

30 (vi) New natural gas transmission lines or high  
31 pressure distribution lines with a maximum allowable operating pressure of  
32 one hundred twenty-five pounds per square inch gauge (125 PSIG) or greater,  
33 facilities designed for or capable of transporting gas at pressures of more  
34 than fifty pounds per square inch (50 psi), natural gas storage facilities,  
35 and associated facilities to provide service to new and existing customers  
36 located in Arkansas;

1                   (vii) Upgrades or expansions of existing natural gas  
2 transmission lines, high pressure distribution lines with a maximum allowable  
3 operating pressure of one hundred twenty-five pounds per square inch gauge  
4 (125 PSIG) or greater, facilities designed for or capable of transporting gas  
5 at pressures of more than fifty pounds per square inch (50 psi), natural gas  
6 storage facilities, and associated facilities to provide service to new and  
7 existing customers located in Arkansas; and

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

11                   (C)(i) A renewable resource strategic investment shall be  
12 eligible for recovery through the rider under this section, if the Arkansas  
13 Public Service Commission finds in a proceeding under § 23-3-201 et seq., §  
14 23-18-104, the Utility Facility Environmental and Economic Protection Act, §  
15 23-18-501 et seq., or any other proceeding for approval of a renewable  
16 resource strategic investment based on substantial evidence, that a renewable  
17 resource strategic investment results in benefits to customers and the  
18 electric utility would continue to have adequate dispatchable resources to  
19 provide reliable service to its customers consistent with the resource  
20 adequacy requirements of the load balancing authority with the addition of  
21 the renewable strategic investment.

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

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

26                                 (b) The renewable resource strategic  
27 investment is necessary to supplement or replace the electric utility's  
28 existing generation resources;

29                                 (c) The renewable resource strategic  
30 investment provides energy and capacity benefits;

31                                 (d) The renewable resource provides generation  
32 resource mix diversification and fuel source mix benefits and risk mitigation  
33 benefits;

34                                 (e) The renewable resource strategic  
35 investment supports efforts to attract or retain economic development  
36 opportunities for this state; or

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

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

7                   (11) "Times interest earned ratio" means earnings before  
8 interest and taxes divided by the total interest payable on bonds and other  
9 debt.

10  
11                   23-4-1304. Authorization to recover strategic investments through  
12 rider – Investor-owned electric utility and investor-owned natural gas  
13 utility.

14                   (a) An investor-owned electric utility or an investor-owned natural  
15 gas utility may use a rider to recover strategic investments that are not  
16 otherwise recoverable through rates that were previously approved by the  
17 Arkansas Public Service Commission or charged by the investor-owned electric  
18 utility or the investor-owned natural gas utility after:

19                   (1) A commission order approving an application under § 23-3-201  
20 et seq. or the Utility Facility Environmental and Economic Protection Act, §  
21 23-18-501 et seq., or a notice under § 23-18-104; or

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

25                   (b)(1) An investor-owned electric utility or an investor-owned natural  
26 gas utility may elect to file with the commission a rider to recover  
27 strategic investments that are not otherwise recoverable in rates previously  
28 approved by the commission or charged by the investor-owned electric utility  
29 or the investor-owned natural gas utility.

30                   (2) The investor-owned electric utility or the investor-owned  
31 natural gas utility shall provide notice to the Attorney General of the  
32 filing of the rider by the investor-owned electric utility or the investor-  
33 owned natural gas utility on the date the investor-owned electric utility or  
34 the investor-owned natural gas utility files the rider with the commission.

35                   (c)(1) An investor-owned electric utility or an investor-owned natural  
36 gas utility may select the date of the first annual filing update, with all

1 subsequent updates to be filed on or by the same day annually as the first  
2 filing update.

3 (2) An investor-owned electric utility or an investor-owned  
4 natural gas utility shall provide notice to the Attorney General of the  
5 filing of the rider on the date the investor-owned electric utility or the  
6 investor-owned natural gas utility files each annual update to the rider with  
7 the commission.

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

11 (e)(1) Upon receipt of an investor-owned electric utility's or an  
12 investor-owned natural gas utility's filing to implement the rider rate  
13 schedule and each annual update under this subchapter, the commission shall  
14 issue an order approving the rider rate schedule and each annual update to  
15 recover strategic investments under this subchapter if the commission  
16 determines that the investor-owned electric utility's or the investor-owned  
17 natural gas utility's application complies with the provisions of this  
18 section and therefore is in the public interest.

19 (2)(A) Unless the commission determines that approving the  
20 investor-owned electric utility's or the investor-owned natural gas utility's  
21 application for the rider and each annual update does not comply with this  
22 subchapter, the commission shall enter an order within sixty (60) calendar  
23 days following the date of the investor-owned electric utility's or the  
24 investor-owned natural gas utility's filing.

25 (B)(i) If the commission determines that approving an  
26 application for approval of a rider rate schedule or annual update under this  
27 subchapter is not in the public interest, the commission shall enter an  
28 order.

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

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

33 (b) Any evidence or other information  
34 submitted by the investor-owned electric utility or the investor-owned  
35 natural gas utility as part of its application that the commission deems to  
36 be insufficient.



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

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

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

13           (F)(i) If the investor-owned electric utility or the  
14 investor-owned natural gas utility submits an amended filing remedying the  
15 areas of noncompliance identified by the commission in its order, the  
16 commission shall enter an order approving the application within ten (10)  
17 calendar days following the date of the amended filing unless the commission  
18 finds that the filing does not comply with the provisions of this subchapter.

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

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

24           (a) The basis for the commission's findings;  
25 and

26           (b) Any evidence or other information  
27 submitted by the investor-owned electric utility or the investor-owned  
28 natural gas utility as part of its notice or application that the commission  
29 deems to be insufficient.

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

32           (i) The investor-owned electric utility's or the  
33 investor-owned natural gas utility's application complies with this  
34 subchapter; or

35           (ii) The investor-owned electric utility or the  
36 investor-owned natural gas utility withdraws its application or appeals the

1 commission's decision.

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

7 (f)(1) At the election of the investor-owned electric utility or the  
8 investor-owned natural gas utility, strategic investments shall be recovered  
9 through the rider, separate from the investor-owned electric utility's or the  
10 investor-owned natural gas utility's formula rate plan implemented under the  
11 Formula Rate Review Act, § 23-4-1201 et seq., any other rider, or otherwise  
12 as part of the investor-owned electric utility's or the investor-owned  
13 natural gas utility's rates approved by the commission.

14 (2) If elected by an investor-owned electric utility or an  
15 investor-owned natural gas utility, the rider shall remain in effect under  
16 this subchapter until the investor-owned electric utility or the investor-  
17 owned natural gas utility decides to withdraw the rider with respect to  
18 future cost recovery for strategic investments to be made after the date of  
19 the withdrawal.

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

25 (h) An amount collected through the rider under this subchapter shall  
26 be collected subject to refunds pending the completion of the commission's  
27 review under this subchapter.

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

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

36 (2) Instead, the commission shall authorize an investor-owned

1 electric utility or an investor-owned natural gas utility to earn a return  
2 through the rider under this subchapter on any construction work in progress,  
3 costs that will ultimately be capitalized or recorded as an allowance for  
4 funds used during construction when the strategic investments go into  
5 service.

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

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

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

19 (B) The investor-owned electric utility or the investor-  
20 owned natural gas utility shall base the balances of those items under  
21 subdivision (m)(1)(A) of this section on the investor-owned electric  
22 utility's or the investor-owned natural gas utility's actual capital  
23 structure with a maximum equity percentage of fifty percent (50%).

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

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

35 (2) For any strategic investment included in the rider under  
36 this section that is complete and in service, the investor-owned electric

1 utility or the investor-owned natural gas utility shall use the capital  
2 structure and overall rate of return that was approved in the investor-owned  
3 electric utility's or the investor-owned natural gas utility's most recent  
4 general rate case proceeding or annual formula rate plan filing.

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

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

13 (2) Once the strategic investments go into service, the  
14 commission shall authorize the investor-owned electric utility or the  
15 investor-owned natural gas utility to recover through the rider any on-going  
16 expenses associated with the strategic investments.

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

22 (4)(A) In the investor-owned electric utility's or the investor-  
23 owned natural gas utility's next general rate case proceeding, the investor-  
24 owned electric utility or the investor-owned natural gas utility shall move  
25 any amounts for any completed strategic investments from the rider into base  
26 rates.

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

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

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

3               (A) Authorize the investor-owned electric utility or  
4 investor-owned natural gas utility to apply the excess deferred income taxes  
5 to offset the investor-owned electric utility's or investor-owned natural gas  
6 utility's rate base used in calculating its rates; or

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

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

12       (r) The commission shall authorize the investor-owned electric utility  
13 or the investor-owned natural gas utility to monetize or apply any tax  
14 credits or other tax incentives, including without limitation investment tax  
15 credits and production tax credits, where possible to reduce the cost of  
16 constructing or acquiring any strategic investments to benefit customers of  
17 an investor-owned electric utility or an investor-owned natural gas utility.

18       (s)(1) The investor-owned electric utility or the investor-owned  
19 natural gas utility shall evaluate opportunities to seek federal funds and  
20 loan programs to reduce the cost of constructing, acquiring, and financing  
21 strategic investments if possible, appropriate, and available to reduce the  
22 cost of constructing or acquiring any strategic investments.

23               (2) If an investor-owned electric utility or an investor-owned  
24 natural gas utility requests and receives federal funding to support  
25 constructing or acquiring strategic investments, the applicable amount of  
26 federal funding shall be deducted from the value of the strategic investments  
27 that are capitalized and recoverable through rates charged to customers of an  
28 investor-owned electric utility or an investor-owned natural gas utility.

29       (t)(1) If an investor-owned electric utility or an investor-owned  
30 natural gas utility, with rates regulated under the Formula Rate Review Act,  
31 § 23-4-1201 et seq., has a return on equity above the return on the investor-  
32 owned electric utility's or the investor-owned natural gas utility's most  
33 recent general rate case proceeding, plus five-tenths percent (0.5%), and  
34 would otherwise be required to provide credits to a customer's bill, the  
35 investor-owned electric utility or the investor-owned natural gas utility  
36 shall not be required to adjust rates and provide credits to customers that

1 may otherwise be required under § 23-4-1207(b) if the investor-owned electric  
2 utility or the investor-owned natural gas utility can demonstrate that the  
3 investor-owned electric utility or the investor-owned natural gas utility has  
4 approved strategic investments under construction or can provide substantial  
5 evidence that it has plans to request commission approval within the next  
6 twenty-four (24) months to make strategic investments that would qualify for  
7 recovery through the rider in an amount equal to or greater than the amount  
8 above the return on equity approved in the investor-owned electric utility's  
9 or the investor-owned natural gas utility's most recent general rate case  
10 proceeding, plus five-tenths percent (0.5%).

11 (2) For an investor-owned electric utility or an investor-owned  
12 natural gas utility, with rates regulated under the Formula Rate Review Act,  
13 § 23-4-1201 et seq., the commission shall not require a reduction of rates to  
14 the investor-owned electric utility's or the investor-owned natural gas  
15 utility's authorized rate of return, or reduce the investor-owned electric  
16 utility's or the investor-owned natural gas utility's target rate of return  
17 under § 23-4-1207(b) for any formula rate plan mechanism under the Formula  
18 Rate Review Act, § 23-4-1201 et seq., if an investor-owned electric utility  
19 or an investor-owned natural gas utility can demonstrate that it has approved  
20 strategic investments or can provide substantial evidence that it has plans  
21 to seek commission approval within the next twenty-four (24) months to make  
22 strategic investments in an amount equal to or greater than the level of  
23 earnings above the investor-owned electric utility's or the investor-owned  
24 natural gas utility's authorized rate of return or the investor-owned  
25 electric utility's or the investor-owned natural gas utility's target rate of  
26 return under § 23-4-1207(b) for any formula rate plan mechanism implemented  
27 under the Formula Rate Review Act, § 23-4-1201 et seq.

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

32 (B)(i) The commission may authorize the investor-owned  
33 electric utility or the investor-owned natural gas utility to record any  
34 amounts identified in subdivisions (t)(1) and (2) of this section associated  
35 with any projects for which it has provided substantial evidence that it has  
36 plans to request commission approval during the next twenty-four (24) months

1 and designate those amounts to offset the cost of the planned strategic  
2 investments if the commission determines that doing so is in the public  
3 interest.

4 (ii) If the commission authorizes recording any  
5 amounts for the projects described in subdivision (t)(3)(B)(i) of this  
6 section, the investor-owned electric utility or the investor-owned natural  
7 gas utility shall deduct interest at a rate equal to the cost of short-term  
8 debt approved in the investor-owned electric utility's or the investor-owned  
9 natural gas utility's last general rate case proceeding from any amounts  
10 recorded until those amounts are applied to offset the cost of strategic  
11 investments.

12 (C) The investor-owned electric utility or the investor-  
13 owned natural gas utility shall provide credits to customers equal to any  
14 remaining amounts identified in subdivisions (t)(1) and (2) of this section  
15 as required under § 23-4-1207(b).

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

18 (v) A commission review of the expenditures associated with strategic  
19 investments included in the rider, including evaluating whether or not any  
20 costs or expenses are reasonable and prudently incurred, shall be completed  
21 within twelve (12) calendar months after the date upon which the investor-  
22 owned electric utility or the investor-owned natural gas utility provides  
23 notice that the strategic investments are complete and in service.

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

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

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

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

35 (B) To obtain a certificate of environmental compatibility  
36 and public need under the Utility Facility Environmental and Economic

1 Protection Act, § 23-18-501 et seq.;

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

4 (D) For any other application related to the sighting or  
5 prudence of the decision to invest in the new strategic investments; and

6 (3) The commission enters an order after January 1, 2025,  
7 approving an application that was filed before the effective date of this  
8 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 sighting or  
17 prudence of the decision to invest in the new strategic investments.

18 (x)(1) If a customer pays or multiple customers pay for a portion of  
19 any strategic investments through a contribution in aid of construction or  
20 through other form of payment, the strategic investments shall continue to be  
21 considered strategic investments and classified as part of the investor-owned  
22 electric utility's or the investor-owned natural gas utility's retail assets  
23 and recoverable through the investor-owned electric utility's or the  
24 investor-owned natural gas utility's retail rates, either in the base rates  
25 of the investor-owned electric utility or the investor-owned natural gas  
26 utility, through a rider under this subchapter, or rates otherwise approved  
27 by the commission.

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

32 (B) A payment by a customer or customers through any other  
33 forms of payment shall be recorded for ratemaking purposes, when the  
34 strategic investments are completed and placed into service and shall be  
35 recognized as payment over a period not to exceed the life of the strategic  
36 investments, in a manner that provides comparable benefits for other



1 customers over the life of the strategic investments.

2  
3 23-4-1305. Procedure to recover strategic investments through riders –  
4 Investor-owned electric utility and investor-owned natural gas utility.

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

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

13 (2) Any other application related to the sighting or prudence of  
14 the decision to invest in strategic investments.

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

17 (1) An annual update to the rider to reflect the annual  
18 expenditures;

19 (2) An update to any projections included in the rider to  
20 recover strategic investments; and

21 (3) An investor-owned electric utility's or an investor-owned  
22 natural gas utility's recovery through the rider shall be limited to the  
23 amounts identified by the investor-owned electric utility or an investor-  
24 owned natural gas utility in the proceeding in which the commission approved  
25 the strategic investments unless a greater amount is subsequently authorized  
26 by the commission.

27 (c) The annual update required under subsection (b) of this section  
28 shall include the information stated in subsections (a)-(b) of this section  
29 for strategic investments following subsequent commission orders approving  
30 strategic investments.

31 (d) An investor-owned electric utility or an investor-owned natural  
32 gas utility shall notify the commission of any significant delays or material  
33 changes in the construction schedule or cost of any strategic investments  
34 approved by the commission under § 23-3-201 et seq., § 23-18-104, or the  
35 Utility Facility Environmental and Economic Protection Act, § 23-18-501 et  
36 seq., from the information available to the commission at the time of its

1 approval.

2 (e)(1) An investor-owned electric utility or an investor-owned natural  
3 gas utility shall remove the cost of any strategic investments that are  
4 abandoned before completion or for which construction has been indefinitely  
5 suspended from the rider unless the commission determines, based on  
6 substantial evidence provided by the investor-owned electric utility or the  
7 investor-owned natural gas utility, that:

8 (A) The costs were reasonable and prudently incurred at  
9 the time the costs were incurred;

10 (B) Continued recovery through the rider remains  
11 reasonable versus recovery through rates;

12 (C) The circumstance of the abandonment before completion  
13 or indefinite construction suspension is reasonable; or

14 (D) A customer or customers have paid all or a portion of  
15 the cost of the strategic investments through a contribution in aid of  
16 construction, special rate contract, or other form of payment.

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

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

25 (B) The circumstance of the abandonment before completion  
26 or indefinite construction suspension is reasonable; or

27 (C) A customer or customers have paid all or a portion of  
28 the cost of the strategic investment through a contribution in aid of  
29 construction, special rate contract, or other form of payment.

30 (3)(A) An investor-owned electric utility or an investor-owned  
31 natural gas utility may request recovery of any costs for strategic  
32 investments that are abandoned before completion or for which construction  
33 has been indefinitely suspended if the costs for strategic investments that  
34 are abandoned before completion or for which construction has been  
35 indefinitely suspended are removed from recovery through the rider in a  
36 separate proceeding.

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

3                   (i) Whether recovery of those costs is in the public  
4 interest; and

5                   (ii) The form and timing of recovery through rates  
6 charged to customers.

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

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

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

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

24                   (C) If the commission finds that the investor-owned  
25 electric utility or the investor-owned natural gas utility provides  
26 substantial evidence to the commission demonstrating that its rates will  
27 remain capable of attracting or retaining economic development opportunities  
28 for the state even if the rates exceed ten percent (10%) below national  
29 average and that doing so is in the public interest, then the commission  
30 shall approve each revenue increase.

31                   (2)(A) If the commission approves a revenue increase for an  
32 investor-owned electric utility or an investor-owned natural gas utility from  
33 an annual update to the rider under this subchapter that results in the  
34 investor-owned electric utility's or the investor-owned natural gas utility's  
35 rates exceeding a level ten percent (10%) below the national average, the  
36 commission shall submit a letter to the cochairs of the Legislative Council

1 notifying the General Assembly that the commission has approved a revenue  
2 increase for an investor-owned electric utility or investor-owned natural gas  
3 utility from an annual update to the rider under this subchapter that has  
4 resulted in an investor-owned electric utility's or an investor-owned natural  
5 gas utility's total rates inclusive of all riders is exceeding a level ten  
6 percent (10%) below the national average.

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

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

20 (D)(i) If an investor-owned natural gas utility's rates  
21 are above the national average for all sectors calculated using the same  
22 method as that used by the United States Energy Information Administration  
23 and published in its most recent edition of the Natural Gas Annual report for  
24 natural gas utilities, as adopted by the commission by rule, and calculated  
25 using data from the same calendar year as the United States Energy  
26 Information Administration publication to which the investor-owned natural  
27 gas utility's revenue increase is compared, the total amount of revenue  
28 increase or decrease for an investor-owned natural gas utility from an annual  
29 update to the rider under this subchapter shall not exceed four percent (4%)  
30 of each rate class's total revenue.

31 (ii) If a conflict exists between subdivision (f)(1)  
32 of this section and subdivision (f)(2)(D)(i) of this section, subdivision  
33 (f)(2)(D)(i) of this section shall control.

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

36 (i) The strategic investments included in the rider

1 for an investor-owned electric utility or an investor-owned natural gas  
2 utility; and

3 (ii) The change in rates resulting from the  
4 investor-owned electric utility's and the investor-owned natural gas  
5 utility's annual update to the rider under this subchapter on the investor-  
6 owned electric utility's or the investor-owned natural gas utility's rates.

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

10 (4) The commission shall submit an annual report to the  
11 Legislative Council describing the generation portfolio mix based on the  
12 generation capacity mix and based on the energy mix for each investor-owned  
13 electric utility.

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

17 (1) Reconcile the actual expenditures and any projected amounts  
18 included in the rider;

19 (2) Net any differences in projected amounts and actual  
20 expenditures; and

21 (3) Either:

22 (A) Reduce the amounts ultimately capitalized by any over-  
23 collection; or

24 (B) Recover any under-collection through subsequent years'  
25 rider filings.

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

30 (1) The investor-owned electric utility or the investor-owned  
31 natural gas utility demonstrates, and the commission finds that a strategic  
32 investment in new electric generation and transmission facilities located  
33 outside of Arkansas provides greater benefits to the investor-owned electric  
34 utility's or the investor-owned natural gas utility's customers in Arkansas  
35 than a comparable strategic investment in new electric generation and  
36 transmission facilities located in Arkansas;

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

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

8  
9           23-4-1306. Authorization to recover strategic investments through  
10 rider – Electric distribution cooperative and electric generation and  
11 transmission cooperative.

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

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

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

22           (b)(1) An electric distribution cooperative or an electric generation  
23 and transmission cooperative may elect to file with the commission a rider to  
24 recover strategic investments that are not otherwise recoverable in rates  
25 previously approved by the commission.

26           (2) The electric distribution cooperative or the electric  
27 generation and transmission cooperative shall provide notice to the Attorney  
28 General of the filing of the rider by the electric distribution cooperative  
29 or the electric generation and transmission cooperative on the date the  
30 electric distribution cooperative or the electric generation and transmission  
31 cooperative files the rider with the commission.

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

36           (d) For a rider under this subchapter, an electric distribution

1 cooperative or an electric generation and transmission cooperative shall use  
2 a rider test period.

3 (e)(1) Upon receipt of an electric distribution cooperative's or an  
4 electric generation and transmission cooperative's filing to implement the  
5 rider rate schedule and each annual update under this subchapter, the  
6 commission shall issue an order approving the rider rate schedule and each  
7 annual update to recover strategic investments under this subchapter if the  
8 commission determines that the electric distribution cooperative's or the  
9 electric generation and transmission cooperative's application complies with  
10 the provisions of this section and therefore is in the public interest.

11 (2)(A) Unless the commission determines that approving the  
12 electric distribution cooperative's or the electric generation and  
13 transmission cooperative's application does not comply with this subchapter,  
14 the commission shall enter an order within sixty (60) calendar days following  
15 the date of the electric distribution cooperative's or the electric  
16 generation and transmission cooperative's filing.

17 (B)(i) If the commission determines that approving an  
18 application is not in the public interest or otherwise fails to meet the  
19 requirements of this section, the commission shall enter an order denying the  
20 application.

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

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

25 (b) Any evidence or other information  
26 submitted by the electric distribution cooperative or the electric generation  
27 and transmission cooperative as part of its application that the commission  
28 deems to be insufficient.

29 (C) Each annual update shall include, for the initial  
30 rider test year, the construction work in progress costs that will ultimately  
31 be capitalized on which the utility will earn a return, amounts that would  
32 otherwise be recorded as allowance for funds used during construction, and  
33 any expenses associated with the construction work in progress that will not  
34 be capitalized.

35 (D) The commission shall verify the amounts included in  
36 each annual update reflect the amounts authorized for recovery under the

1 Generating Arkansas Jobs Act of 2025, § 23-4-1301 et seq.

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

5 (F)(i) If the electric distribution cooperative or  
6 electric generation and transmission cooperative submits an amended filing  
7 remedying the areas of noncompliance identified by the commission in its  
8 order, the commission shall enter an order approving the application within  
9 ten (10) calendar days following the date of the amended filing unless the  
10 commission finds that the filing does not comply with the provisions of this  
11 subchapter.

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

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

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

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

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

25 (i) The electric distribution cooperative's or an  
26 electric generation and transmission cooperative's application complies with  
27 this subchapter;

28 (ii) The electric distribution cooperative or the  
29 electric generation and transmission cooperative withdraws its application;  
30 or

31 (iii) The electric distribution cooperative or the  
32 electric generation and transmission cooperative appeals the commission's  
33 decision.

34 (H) If the commission fails to issue its order within the  
35 time frames stated in this subchapter, the electric distribution  
36 cooperative's or the electric generation and transmission cooperative's



1 filing shall become effective by operation of law, subject to completion of  
2 the commission's review under this subchapter.

3 (f)(1) At the election of the electric distribution cooperative or the  
4 electric generation and transmission cooperative, strategic investments shall  
5 be recovered through the rider under this subchapter, separate from any rate  
6 adjustments by an electric distribution cooperative under § 23-4-901 et seq.,  
7 any rate adjustments by an electric generation and transmission cooperative  
8 under § 23-4-1101 et seq., any other rider, or otherwise as part of the  
9 electric distribution cooperative's or the electric generation and  
10 transmission cooperative's rates approved by the commission.

11 (2) If elected by an electric distribution cooperative or an  
12 electric generation and transmission cooperative, the rider shall remain in  
13 effect under this subchapter until the electric distribution cooperative or  
14 the electric generation and transmission cooperative decides to withdraw the  
15 rider with respect to future cost recovery for strategic investments to be  
16 made after the date of the withdrawal.

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

22 (h) An amount collected through the rider under this subchapter shall  
23 be collected subject to refunds pending the completion of the commission's  
24 review under this subchapter.

25 (i) The rider elected by an electric distribution cooperative or an  
26 electric generation and transmission cooperative under this subchapter to  
27 recover strategic investments is a revenue requirement rider and shall  
28 provide an electric distribution cooperative's or an electric generation and  
29 transmission cooperative's approved times interest earned ratio, including  
30 any amounts to build members equity, for the construction work in progress  
31 during construction and return on rate base plus operating expenses once the  
32 strategic investments are complete and in service.

33 (j)(1) An electric distribution cooperative or an electric generation  
34 and transmission cooperative shall not accrue an allowance for funds used  
35 during construction for strategic investments with costs recovered through  
36 the rider.

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

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

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

17           (m) For the purposes of the rider under this subchapter, the electric  
18 distribution cooperative's or the electric generation and transmission  
19 cooperative's times interest earned ratio shall be the times interest earned  
20 ratio underlying its currently approved rates, including any additional  
21 amounts to build equity of the members of the electric distribution  
22 cooperative or the electric generation and transmission cooperative.

23           (n)(1) On the strategic investments' being complete and in service,  
24 the commission shall authorize the electric distribution cooperative or the  
25 electric generation and transmission cooperative to adjust its revenues  
26 through the rider under this subchapter to maintain its authorized times  
27 interest earned ratio for expenditures associated with any construction work  
28 in progress costs that will ultimately be capitalized or recorded as  
29 allowance for funds used during construction when the strategic investments  
30 are complete and in service.

31           (2) Once the strategic investments are complete and in service,  
32 the commission shall authorize the electric distribution cooperative or the  
33 electric generation and transmission cooperative to recover through the rider  
34 under this subchapter any on-going expenses associated with the strategic  
35 investments.

36           (3) In the electric distribution cooperative's or the electric

1 generation and transmission cooperative's next general rate case proceeding,  
2 the commission shall allow the electric distribution cooperative or the  
3 electric generation and transmission cooperative to include any capitalized  
4 amounts and associated expenses for completed strategic investments in its  
5 base rates.

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

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

14 (o) The revenues from the rider under this subchapter shall be  
15 included in calculating the allowed level of any rate increase for electric  
16 distribution cooperative rate adjustments under § 23-4-901 et seq. or  
17 electric generation and transmission cooperative rate adjustments under § 23-  
18 4-1101 et seq. but shall otherwise be excluded from the revenues included in  
19 electric distribution cooperative rate adjustments under § 23-4-901 et seq.  
20 or electric generation and transmission cooperative rate adjustments under §  
21 23-4-1101 et seq.

22 (p) The commission shall authorize an electric distribution  
23 cooperative or an electric generation and transmission cooperative to  
24 monetize or apply any tax credits or other tax incentives, including without  
25 limitation investment tax credits and production tax credits, where possible  
26 to reduce the cost of constructing or acquiring any strategic investments for  
27 the benefit of members of the electric distribution cooperative or the  
28 electric generation and transmission cooperative.

29 (q)(1) An electric distribution cooperative or an electric generation  
30 and transmission cooperative shall evaluate opportunities to seek federal  
31 funds and loan programs to reduce the cost of constructing, acquiring, and  
32 financing strategic investments if possible, appropriate, and available for  
33 the benefit of members of the electric distribution cooperative or the  
34 electric generation and transmission cooperative.

35 (2) If an electric distribution cooperative or an electric  
36 generation and transmission cooperative requests and receives federal funding

1 to support constructing or acquiring strategic investments, the applicable  
2 amount of federal funding shall be deducted from the value of the strategic  
3 investments that are capitalized and recoverable through rates charged to  
4 members of the electric distribution cooperative or the electric generation  
5 and transmission cooperative.

6 (r) If an electric distribution cooperative or an electric generation  
7 and transmission cooperative has revenues above its authorized times interest  
8 earned ratio, the electric distribution cooperative or the electric  
9 generation and transmission cooperative shall not be required to adjust rates  
10 if the electric distribution cooperative or the electric generation and  
11 transmission cooperative can demonstrate that it has plans to invest in  
12 strategic investments that would qualify for recovery through the rider in  
13 amounts equal to or greater than the amount above the authorized times  
14 interest earned ratio.

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

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

24 (u) An expenditure associated with strategic investments for which an  
25 application for approval is pending before the commission as of the effective  
26 date of this subchapter shall be eligible for recovery through the rider  
27 under this subchapter if:

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

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

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

35 (B) To obtain a certificate of environmental compatibility  
36 and public need under the Utility Facility Environmental and Economic

1 Protection Act, § 23-18-501 et seq.;

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

4 (D) For any other application related to the sighting or  
5 prudence of the decision to invest in the new strategic investments; and

6 (4) The commission enters an order after January 1, 2025,  
7 approving an application that was filed before the effective date of this  
8 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 sighting or  
17 prudence of the decision to invest in the new strategic investments.

18 (v)(1) If a customer pays or multiple customers pay for a portion of  
19 any strategic investments through a contribution in aid of construction or  
20 through other form of payment, the strategic investments shall continue to be  
21 considered strategic investments and classified as part of the electric  
22 distribution cooperative's or the electric generation and transmission  
23 cooperative's retail assets and recoverable through the electric distribution  
24 cooperative's or the electric generation and transmission cooperative's  
25 retail rates, either in the base rates of the electric distribution  
26 cooperative or the electric generation and transmission cooperative, through  
27 a rider under this subchapter, or rates otherwise approved by the commission.

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

32 (B) A payment by a customer or customers through any other  
33 forms of payment shall be recorded for ratemaking purposes when the strategic  
34 investments are completed and placed into service and shall be recognized as  
35 payment over a period not to exceed the life of the strategic investments in  
36 a manner that provides comparable benefits for other customers over the life

1 of the strategic investments.

2  
3 23-4-1307. Procedure to recover strategic investments through rider –  
4 Electric distribution cooperative and electric generation and transmission  
5 cooperative.

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

12 (1) A commission order approving an application under § 23-3-201  
13 et seq. or the Utility Facility Environmental and Economic Protection Act, §  
14 23-18-501 et seq., or a notice under § 23-18-104; or

15 (2) Any other application related to the sighting or prudence of  
16 the decision to invest in the strategic investments.

17 (b)(1) An electric distribution cooperative or an electric generation  
18 and transmission cooperative shall file an annual update to the rider under  
19 this subchapter to reflect the annual expenditures plus an update to any  
20 projections included in the rider under this subchapter to recover strategic  
21 investments.

22 (2) An electric distribution cooperative's or an electric  
23 generation and transmission cooperative's recovery through the rider shall be  
24 limited to the amounts identified by the electric distribution cooperative or  
25 the electric generation and transmission cooperative in the proceeding in  
26 which the commission approved the strategic investments unless a greater  
27 amount is subsequently authorized by the commission.

28 (c) The annual update required under subdivision (b)(1) of this  
29 section shall include the amounts stated in this section for strategic  
30 investments following subsequent orders from the commission approving  
31 strategic investments.

32 (d) An electric distribution cooperative or an electric generation and  
33 transmission cooperative shall notify the commission of any significant  
34 delays or material changes in the construction schedule or cost of any  
35 strategic investments approved by the commission under § 23-3-201 et seq., §  
36 23-18-104, or the Utility Facility Environmental and Economic Protection Act,

1 § 23-18-501 et seq., from the information available to the commission at the  
2 time of its approval.

3 (e)(1) An electric distribution cooperative or an electric generation  
4 and transmission cooperative shall remove from the rider under this  
5 subchapter the cost of any strategic investments that are abandoned before  
6 completion or for which construction has been indefinitely suspended unless  
7 the commission determines, based on substantial evidence provided by the  
8 electric distribution cooperative or the electric generation and transmission  
9 cooperative, that:

10 (A) The costs were reasonable and prudently incurred at  
11 the time those costs were incurred;

12 (B) Continued recovery through the rider under this  
13 subchapter remains reasonable versus recovery through rates otherwise;

14 (C) The circumstance of the abandonment before completion  
15 or indefinite construction suspension is reasonable; or

16 (D) A customer or customers have paid all or a portion of  
17 the cost of the strategic investments through a contribution in aid of  
18 construction, special rate contract, or other form of payment.

19 (2) Upon removal of any costs for strategic investments that are  
20 abandoned or for which construction has been indefinitely suspended, an  
21 electric distribution cooperative or an electric generation and transmission  
22 cooperative may seek recovery of those costs through rates if the commission  
23 determines, based on substantial evidence provided by the electric  
24 distribution cooperative or the electric generation and transmission  
25 cooperative, that:

26 (A) The costs were reasonable and prudently incurred at  
27 the time those costs were incurred;

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

30 (C) A customer or customers have paid all or a portion of  
31 the cost of the strategic investments through a contribution in aid of  
32 construction, special rate contract, or other form of payment.

33 (3)(A) An electric distribution cooperative or an electric  
34 generation and transmission cooperative may request recovery of any costs for  
35 strategic investments that are abandoned before completion or for which  
36 construction has been indefinitely suspended and that are removed from

1 recovery through the rider under this subchapter in a separate proceeding.

2 (B) The commission shall determine:

3 (i) Whether recovery of those costs is in the public  
4 interest; and

5 (ii) The form and timing of recovery through rates  
6 charged to customers.

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

20 (B) If an electric distribution cooperative or an electric  
21 generation and transmission cooperative provides substantial evidence  
22 demonstrating that the electric distribution cooperative's or the electric  
23 generation and transmission cooperative's rates will remain capable of  
24 attracting or retaining economic development opportunities for the state even  
25 if the rates exceed a level of ten percent (10%) below national average and  
26 that doing so is in the public interest, then the commission shall approve  
27 the revenue increase.

28 (2)(A) If the commission approves a revenue increase for an  
29 electric distribution cooperative or an electric generation and transmission  
30 cooperative from an annual update to the rider under this subchapter that  
31 results in the electric distribution cooperative's or the electric generation  
32 and transmission cooperative's rates exceeding a level ten percent (10%)  
33 below the national average, the commission shall submit a letter to the  
34 cochairs of the Legislative Council notifying the General Assembly that the  
35 commission has approved a revenue increase for the electric distribution  
36 cooperative or the electric generation and transmission cooperative from an



1 annual update to the rider under this subchapter that has resulted in the  
2 electric distribution cooperative's or the electric generation and  
3 transmission cooperative's total rates, inclusive of all riders, that exceeds  
4 a level ten percent (10%) below the national average.

5 (B) Unless the commission approves an increase in the  
6 total amount of revenue increase from an annual update to the rider under  
7 this subchapter that exceeds a level ten percent (10%) below the national  
8 average for all sectors under subdivision (g)(1)(A) of this section, the  
9 electric distribution cooperative or the electric generation and transmission  
10 cooperative shall adjust an annual update as required under subsections (a)–  
11 (c) of this section to include only a revenue increase that results in rates  
12 that are ten percent (10%) below the national average.

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

18 (g) The commission shall submit an annual report to the Legislative  
19 Council describing the strategic investments included in the rider under this  
20 subchapter for each electric distribution cooperative or electric generation  
21 and transmission cooperative and indicating the change in rates resulting  
22 from each electric distribution cooperative's or electric generation and  
23 transmission cooperative's annual update to the rider under this subchapter  
24 on the electric distribution cooperative's or the electric generation and  
25 transmission cooperative's rates.

26 (h)(1) Each electric distribution cooperative or electric generation  
27 and transmission cooperative shall submit an annual report to the commission  
28 describing the electric distribution cooperative or the electric generation  
29 and transmission cooperative generation portfolio mix based on the generation  
30 capacity mix and based on the energy mix.

31 (2) The commission shall submit an annual report to the  
32 Legislative Council describing the generation portfolio mix based on the  
33 generation capacity mix and based on the energy mix for an electric  
34 distribution cooperative or an electric generation and transmission  
35 cooperative.

36 (i) Once strategic investments that are subject to a notice of intent

1 to construct under § 23-3-201(b)(7) or § 23-18-510(f)(1) is complete and in  
 2 service, an electric distribution cooperative or an electric generation and  
 3 transmission cooperative shall:

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

6 (2) Net any differences in projected amounts and actual  
 7 expenditures; and

8 (3) Either:

9 (A) Reduce the amounts ultimately capitalized by any over-  
 10 collection; or

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

13 (j) For recovery through the rider, an electric distribution  
 14 cooperative or an electric generation and transmission cooperative shall give  
 15 priority to strategic investments in new electric generation and transmission  
 16 facilities located in Arkansas, unless:

17 (1) The electric distribution cooperative or the electric  
 18 generation and transmission cooperative demonstrates, and the commission  
 19 finds that a strategic investment in new electric generation and transmission  
 20 facilities located outside of Arkansas provides greater benefits to the  
 21 electric distribution cooperative's or an electric generation and  
 22 transmission cooperative's customers in Arkansas than a comparable strategic  
 23 investment in new electric generation and transmission facilities located in  
 24 Arkansas;

25 (2) A comparable strategic investment in new electric generation  
 26 or transmission facility is not available or cannot be constructed in  
 27 Arkansas; or

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

32  
 33 23-4-1308. Recovery of advanced energy technologies and feasibility  
 34 studies under strategic investments rider – Definition.

35 (a)(1)(A) Upon a finding by the Arkansas Public Service Commission  
 36 that advanced energy technologies are in the public interest, a public

1 utility may elect to pursue strategic investments in the advanced energy  
 2 technologies and shall recover strategic investments in the advanced energy  
 3 technologies through the rider obtained under this subchapter after a  
 4 commission order approving an application under § 23-3-201 et seq. or § 23-  
 5 18-501 et seq., a notice under § 23-18-104, or any other application related  
 6 to the sighting or prudence of the decision to invest in strategic  
 7 investments.

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

11 (i) Technically feasible;

12 (ii) Commercially and financially viable; and

13 (iii) Otherwise beneficial to customers in Arkansas.

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

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

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

24 (A) Modular nuclear reactors;

25 (B) New technologies for nuclear generation technologies;

26 (C) Hydrogen-fueled generation technologies;

27 (D) Geothermal generation technologies;

28 (E) Renewable natural gas technologies;

29 (F) Hydrogen technologies;

30 (G) Biomass generation technologies;

31 (H) Hydroelectric generation technologies; and

32 (I) Emissions capture and sequestration equipment or  
 33 facilities associated with any new or existing major utility facility as  
 34 defined in the Utility Facility Environmental and Economic Protection Act, §  
 35 23-18-501 et seq., or other electric transmission facilities or natural gas  
 36 transmission facilities by a public utility that are:

1                   (i) Required by state law or rule or federal  
2 regulation;

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

6                   (iii) Otherwise found by the commission to be in the  
7 public interest.

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

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

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

28           (2) For all other feasibility studies of advanced energy  
29 technologies, the commission shall authorize a public utility to recover the  
30 reasonable and prudently incurred cost of the feasibility study and shall  
31 determine the form and timing of recovery through rates charged to customers.

32  
33           23-4-1309. Authorization of special rate contracts.

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

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

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

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

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

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

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

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

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

28           (C)(i) If an investor-owned electric utility or an  
29 investor-owned natural gas utility submits additional evidence or other  
30 information demonstrating that the contract is in the public interest, the  
31 commission shall enter an order approving the contract within thirty (30)  
32 days after its filing unless the commission determines that approving the  
33 contract is inconsistent with the public interest.

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

1                   (a) The basis for the commission's findings;  
 2 and

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

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

9                   (a) Approving the contract is in the public  
 10 interest;

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

13                   (c) The investor-owned electric utility or an  
 14 investor-owned natural gas utility appeals the commission's decision.

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

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

26                   (A) A contribution in aid of construction;

27                   (B) Any other contribution toward the cost of the  
 28 strategic investments;

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

30                   (D) A customer prepayment or other charge;

31                   (E) Prepaid allowance for funds used during construction;

32 or

33                   (F) As part of a minimum bill provision.

34                   (c) An electric cooperative corporation that is established under the  
 35 Electric Cooperative Corporation Act, § 23-18-301 et seq., including any  
 36 electric generation and transmission cooperative, may facilitate the recovery

1 of all or part of the cost in subsections (a) and (b) of this section through  
 2 one (1) or more riders under this subchapter.

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

7  
 8 23-4-1310. Authorization for alternative methods of financing.

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

12 (b) The alternative methods of financing may include without  
 13 limitation:

14 (1) Sale-leaseback agreements;

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

16 (3) Other methods of financing.

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

20 (A) The financing is unreasonable;

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

22 (C) The financing is detrimental to customers.

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

29 (B) If the commission determines that approving the  
 30 financing is inconsistent with the public interest, in its order denying  
 31 approval of the financing, the commission shall include a discussion of:

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

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

36 (C)(i) If an electric utility or a natural gas utility

1 submits additional evidence or other information demonstrating that the  
2 financing is in the public interest, the commission shall enter an order  
3 approving the contract within thirty (30) days after its filing unless the  
4 commission determines that approving the financing is inconsistent with the  
5 public interest.

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

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

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

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

17 (i) Approving the financing is in the public  
18 interest;

19 (ii) The electric utility or the natural gas utility  
20 withdraws its application; or

21 (iii) The electric utility or the natural gas  
22 utility appeals the commission's decision.

23  
24 23-4-1311. Rules.

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

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

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

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

36



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

2 23-18-104. Construction of power-generating facilities outside ~~the~~  
3 ~~state~~ Arkansas.

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

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

14 (2) An electric public utility or natural gas public utility  
15 shall provide notice to the commission of its intent to recover any strategic  
16 investments, as defined under § 23-4-1303, subject to the Generating Arkansas  
17 Jobs Act of 2025, § 23-4-1301 et seq. as part of an application for a  
18 certificate of public convenience and necessity under § 23-3-201 et seq.

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

25 (d)(1) If the commission determines that approving an electric public  
26 utility's application to construct an electric generating facility located  
27 outside of Arkansas that is a major utility facility is consistent with the  
28 public interest, the commission shall enter an order granting approval of the  
29 electric public utility's application within six (6) months after the  
30 electric public utility submits its notice of intent to construct electric  
31 generating facilities under this section.

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

36 (B) In the order entered by the commission under

1 subdivision (d)(2)(A) of this section, the commission shall discuss:

2 (i) The basis for the commission's determination;

3 and

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

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

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

16 (b) In the order entered by the commission  
17 under subdivision (d)(3)(A)(ii)(a) of this section, the commission shall  
18 discuss:

19 (1) The basis for the commission's  
20 findings; and

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

24 (B) The process described in subdivision (d)(2) of this  
25 section and this subdivision (d)(3) may continue until the commission finds  
26 that:

27 (i) The electric public utility's application  
28 complies with this subchapter;

29 (ii) The electric public utility withdraws its  
30 application; or

31 (iii) The electric public utility appeals the  
32 commission's decision.

33 ~~(d)~~(e) Any electric public utility which does not own in whole or in  
34 part another electric public utility and which is not owned in whole or in  
35 part by a holding company and which derives less than twenty-five percent  
36 (25%) of its total revenues from Arkansas customers is exempt from ~~the~~

1 ~~provisions of~~ this section.

2  
3 SECTION 18. Arkansas Code § 23-18-202, concerning the jurisdiction of  
4 the Arkansas Public Service Commission, is amended to add an additional  
5 subsection to read as follows:

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

11  
12 SECTION 19. Arkansas Code § 23-18-502(a), concerning the legislative  
13 findings under the Utility Facility Environmental and Economic Protection  
14 Act, is amended to add an additional subdivision to read as follows:

15 (4) Furthermore, it is necessary to reform the certification  
16 process for construction of major utility facilities under this subchapter to  
17 expedite the certification process and reduce the regulatory and  
18 administrative burdens associated with the certification process.

19  
20 SECTION 20. Arkansas Code § 23-18-503, concerning the definitions used  
21 under the Utility Facility Environmental and Economic Protection Act, is  
22 amended to add additional subdivisions to read as follows:

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

25 (A) Transports gas from a gathering pipeline or natural  
26 gas storage facility to a distribution center or to a large volume customer  
27 using similar volumes of gas as a distribution center and is not located  
28 downstream from a distribution center;

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

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

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

34 (17) "Strategic investments" means the same as defined in § 23-  
35 4-1303.

36

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

4 (6) "Major utility facility" means:

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

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

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

13 (ii) A design voltage of one hundred seventy  
 14 kilovolts (170 kV) or more and extending a distance of more than one (1)  
 15 mile; or

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

24  
 25 SECTION 22. Arkansas Code § 23-18-504(a), concerning exemptions for a  
 26 major utility facility under the Utility Facility Environmental and Economic  
 27 Protection Act, is amended to read as follows:

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

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

30 (B) For which, before July 24, 1973, an application for  
 31 the approval of the major utility facility was made to any federal, state,  
 32 regional, or local governmental agency that possesses the jurisdiction to  
 33 consider the matters prescribed for finding and determination in § 23-18-  
 34 519(a) and (b);

35 ~~(2)~~(C) For which, before July 24, 1973, the Arkansas  
 36 Public Service Commission issued a certificate of convenience and necessity

1 or otherwise approved the construction of the major utility facility;

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

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

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

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

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

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

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

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

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

23  
24 SECTION 23. Arkansas Code § 23-18-508 is amended to read as follows:  
25 23-18-508. Rules.

26 (a) The Arkansas Public Service Commission shall have and is granted  
27 the power and authority to make and amend from time to time after reasonable  
28 notice and hearing reasonable rules establishing exemptions from some or all  
29 of the requirements of this subchapter for the construction, reconstruction,  
30 or expansion of any major utility facility which is unlikely to have major  
31 adverse environmental or economic impact by reason of length, size, location,  
32 available space, or right-of-way on or adjacent to existing utility  
33 facilities, and similar reasons.

34 (b) The commission shall:

35 (1) Initiate a proceeding to modify any existing rules necessary  
36 to administer this subchapter and any other applicable exemptions under this

1 subchapter; and

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

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

8

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

10 23-18-510. Certificate of environmental compatibility and public need  
 11 – Requirement – Exceptions.

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

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

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

29 (b)(1) An entity, including without limitation a person, public  
 30 utility, utility, regional transmission organization, municipality, merchant  
 31 transmission provider, merchant generator, or other entity, whether regulated  
 32 or not by the commission, shall not begin construction of an electric  
 33 transmission line and associated facilities, as described in § 23-18-  
 34 503(6)(B), within a national interest electric transmission corridor without  
 35 first obtaining a certificate of environmental compatibility and public need  
 36 for the facility from the commission.

1           (2) An electric public utility or a natural gas public utility  
2 shall provide notice to the commission of its intent to construct to recover  
3 any strategic investments, as defined under § 23-4-1303, subject to the  
4 Generating Arkansas Jobs Act of 2025, § 23-4-1301 et seq. as part of an  
5 application for a certificate of public convenience and necessity under § 23-  
6 3-201 et seq.

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

9           (1) Reconstruction, alteration, or relocation of a major utility  
10 facility that must be reconstructed, altered, or relocated because of the  
11 requirements of a federal, state, or county governmental body or agency for  
12 purposes of highway transportation, public safety, or air and water quality;  
13 or

14           (2) An electric transmission line and associated facilities  
15 including substations of a design voltage of one hundred kilovolts (100 kV)  
16 or more to be constructed or operated by a municipal electric utility system  
17 that is located within the territorial limits of the municipal electric  
18 utility system.

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

26           (e)(1) Strategic investments in major utility facilities under § 23-  
27 18-503(7)(A) located on the same or adjacent property or in the same rights-  
28 of-way or adjacent rights-of-way by a public utility are exempt from this  
29 subchapter but shall be subject to the requirements of § 23-3-201 et seq.

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

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

1  
2 SECTION 25. Arkansas Code § 23-18-513 is amended to read as follows:

3 23-18-513. Application for certificate ~~—Service or notice of~~  
4 ~~application.~~

5 (a) Each public utility filing an application for a certificate of  
6 environmental compatibility and public need shall ~~be accompanied by proof of~~  
7 ~~service of a copy of the application on~~ provide notice of its application as  
8 the Arkansas Public Service Commission may require.

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

11 (1) The mayor of each municipality;

12 (2) The county judge;

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

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

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

22 (6) The office of the Governor; and

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

25 (A) Division of Environmental Quality;

26 (B) Department of Health;

27 (C) Arkansas Economic Development Commission;

28 (D) Arkansas Department of Transportation;

29 (E) Arkansas State Game and Fish Commission;

30 (F) Arkansas Natural Heritage Commission;

31 (G) Any state agency which may have the authority to  
32 assist in financing the applicant's facility;

33 (H) Any other state agency or department which manages or  
34 has jurisdiction over state-owned lands on which all or part of the proposed  
35 utility facility is to be or may be located;

36 (I) Department of Finance and Administration;



1                   (J) ~~State Energy Conservation and Policy Office~~  
2 ~~{abolished};~~

3                   ~~(K)~~ The office of the Attorney General; and  
4                   ~~(L)~~(K) Any other state agency or department designated by  
5 Arkansas Public Service Commission rule or order; ~~and~~

6                   ~~(8)~~ ~~Proof that a copy of the application has been made available~~  
7 ~~for public inspection at all public libraries in each county in which the~~  
8 ~~proposed utility facility is to be or may be located.~~

9                   ~~(b)~~(c) The copy of the application shall be accompanied by a notice  
10 specifying the date on or about which the application is to be filed and a  
11 notice that interventions or limited appearances must be filed with the  
12 Arkansas Public Service Commission within thirty (30) days after the date set  
13 forth as the date of filing, unless good cause is shown pursuant to § 23-18-  
14 517.

15                   ~~(e)~~~~(1)~~(d)(1) Each application shall also be accompanied by proof that  
16 written notice specifying the date on or about which the application is to be  
17 filed and the date that interventions or limited appearances must be filed  
18 with the Arkansas Public Service Commission, unless good cause is shown  
19 pursuant to § 23-18-517, has been sent by certified mail to each owner of  
20 real property on the proposed route selected by the public utility on which a  
21 major utility facility is to be located or constructed.

22                   (2) The written notice required by this subsection shall be  
23 directed to the address of the owner of the real property as it appears on  
24 the records in the office of the county sheriff or county tax assessor for  
25 the mailing of statements for taxes as provided in § 26-35-705.

26                   ~~(d)~~~~(1)~~(e) Each application shall also be accompanied by proof that  
27 public notice of the application was given to persons residing in  
28 municipalities and counties entitled to receive notice under subsection ~~(a)~~  
29 (b) of this section by the publication in a newspaper having substantial  
30 circulation in the municipalities or counties of:

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

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

34                   ~~(C)~~(3) A statement that intervention or limited appearances  
35 shall be filed with the Arkansas Public Service Commission within thirty (30)  
36 days after the date stated in the notice, unless good cause is shown under §

1 23-18-517.

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

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

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

17 ~~(e)(f)~~ Inadvertent failure of service on or notice to any of the  
 18 municipalities, counties, governmental agencies, or persons identified in  
 19 subsections ~~(a) and (e)~~ (b) and (d) of this section may be cured pursuant to  
 20 orders of the Arkansas Public Service Commission designed to afford such  
 21 persons adequate notice to enable their effective participation in the  
 22 proceedings.

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

27 ~~(g)(h)~~ Where any personal service or notice is required in this  
 28 section, the service may be made by any officer authorized by law to serve  
 29 process, by personal delivery, or by certified mail.

30

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

32 ~~23-18-514. Application for certificate—Commentary by state agencies~~  
 33 ~~—Deficiency letters.~~

34 ~~(a)(1)~~ ~~Promptly after the filing of an application for a certificate~~  
 35 ~~of environmental compatibility and public need, the staff of the Arkansas~~  
 36 ~~Public Service Commission shall invite comments from all state agencies~~

1 ~~entitled to service under § 23-18-513 as to the adequacy of applicant's~~  
 2 ~~statements.~~

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

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

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

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

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

21 (a)(1) Upon receipt of an application complying with §§ 23-18-511 –  
 22 ~~23-18-514~~ 23-18-513, the Arkansas Public Service Commission shall promptly  
 23 fix a date for the commencement of a public hearing thereon, which date shall  
 24 be not ~~fewer than forty (40) days nor more than one hundred eighty (180)~~  
 25 ninety (90) days after the receipt of the application, and shall conclude the  
 26 proceedings as expeditiously as practicable.

27  
 28 SECTION 28. Arkansas Code § 23-18-517(a), concerning parties to  
 29 certification proceedings, is amended to read as follows:

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

- 31 (1) The applicant; or  
 32 (2) ~~Each municipality, county, and government agency or~~  
 33 ~~department or other person entitled to receive service of a copy of the~~  
 34 ~~application under § 23-18-513(a) if it has filed with the Arkansas Public~~  
 35 ~~Service Commission a notice of intervention as a party within thirty (30)~~  
 36 ~~days after service; or~~

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

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

10                   ~~(B) Interest is not adequately represented by other~~  
 11 ~~parties; and~~

12                   ~~(C) Person~~ A person or corporation that has petitioned the  
 13 commission for leave to intervene as a party within thirty (30) days after  
 14 the date given in the public notice as the date of filing the application.

15  
 16           SECTION 29. Arkansas Code § 23-18-519(a), concerning decisions of the  
 17 Arkansas Public Service Commission and modifications of applications, is  
 18 amended to read as follows:

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

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

27           (3)(A) If the commission determines that granting a certificate  
 28 of environmental compatibility and public need is in the public interest, it  
 29 shall enter an order granting a certificate of environmental compatibility  
 30 and public need within six (6) months after the receipt of the application.

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

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

36                                   (a) The basis for the commission's findings;

1 and

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

4 (C)(i) If a public utility submits additional evidence  
5 demonstrating that the strategic investments in major utility facilities that  
6 are subject to this subchapter are reasonable, necessary, and in the public  
7 interest, the commission shall enter an order granting the certificate within  
8 thirty (30) days after the date of the public utility's filing unless the  
9 commission finds that the strategic investments subject to this subchapter  
10 are not reasonable, necessary, or in the public interest.

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

13 (a) The basis for the commission's findings;  
14 and

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

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

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

22 (b) The public utility withdraws its  
23 application; or

24 (c) The public utility appeals the  
25 commission's decision.

26

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

28 23-18-521. Issuance of certificate – Effect.

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

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

35 (2) A certificate issued under this subchapter entitles the  
36 applicant to a permit under § 23-3-501 et seq. without any further notice or

1 hearing if the applicant has filed with the Arkansas Public Service  
2 Commission the consent or authorization required by § 23-3-504(7) and paid  
3 the damages stated in § 23-3-501 et seq.

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

7  
8 SECTION 31. EMERGENCY CLAUSE. It is found and determined by the  
9 General Assembly of the State of Arkansas that significant investment in  
10 electric public utility infrastructure and natural gas public utility  
11 infrastructure is required to enable this state to attract and serve economic  
12 development projects across a variety of industries, as well as to continue  
13 reliably supporting existing and new customers; that these economic  
14 development projects and the continued provision of reliable electric utility  
15 services and natural gas utility services are essential to the future of this  
16 state; and that this act is immediately necessary because strategic  
17 investments in electric public utility infrastructure and natural gas public  
18 utility infrastructure support the development of sites available for  
19 economic development projects. Therefore, an emergency is declared to exist,  
20 and this act being immediately necessary for the preservation of the public  
21 peace, health, and safety shall become effective on:

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

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

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

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