

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S4/3/13
A Bill

SENATE BILL 795

By: Senator Rapert
By: Representative Wren

For An Act To Be Entitled

AN ACT TO REGULATE ELECTRIC DEMAND RESPONSE; AND FOR
OTHER PURPOSES.

Subtitle

TO REGULATE ELECTRIC DEMAND RESPONSE.

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

SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an additional subchapter to read as follows:

Subchapter 10 – Regulation of Electric Demand Response Act
23-18-1001. Title.

This subchapter shall be known and may be cited as the "Regulation of Electric Demand Response Act".

23-18-1002. Definitions.

As used in this subchapter:

(1)(A) "Aggregator of retail customers" means a person that aggregates demand response from *retail* customers for the purpose of marketing, selling, or marketing and selling the aggregated demand response:

(i) To an electric public utility; or

(ii) Into a wholesale electricity market.

(B) "Aggregator of retail customers" does not include:

(i) An electric public utility to the extent that it engages in demand response programs or demand response aggregation activities with the *retail* customers in its own service territory as certificated by *the*



Arkansas Public Service Commission; or

(ii) A municipally owned electric utility or consolidated municipal utility improvement district to the extent that it engages in demand response programs or demand response aggregation activities with the retail customers in its own service territory; and

(2)(A) "Demand response" means a reduction in the consumption of on-peak or off-peak electric energy by a retail customer served by an electric public utility or a municipally owned electric utility or consolidated municipal utility improvement district relative to the retail customer's expected consumption in response to:

(i) Changes in the price of electric energy to the retail customer over time; or

(ii) Incentive payments designed to induce lower consumption of electric energy.

(B) "Demand response" includes demand response resources capable of providing demand response.

23-18-1003. Authority to regulate demand response.

(a) The marketing, selling, or marketing and selling of demand response within the State of Arkansas by electric public utilities or aggregators of retail customers to retail customers or by electric public utilities, aggregators of retail customers, or retail customers into wholesale electricity markets is subject to regulation by:

(1) The Arkansas Public Service Commission under Acts 1935, No. 324, as amended; or

(2) The local governing authority in the case of a municipally owned electric utility or a consolidated municipal utility improvement district.

(b) The commission:

(1) May establish the terms and conditions for the marketing, selling, or marketing and selling of demand response by electric public utilities or aggregators of retail customers to retail customers or by electric public utilities, aggregators of retail customers, or retail customers into wholesale electricity markets; and

(2) Shall not regulate demand response investments or demand response actions of a retail customer on the customer's side of the electric

meter.

23-18-1004. Marketing or selling of demand response prohibited.

The marketing, selling, or marketing and selling of demand response into wholesale electricity markets by an aggregator of retail customers or by a retail customer is prohibited unless the Arkansas Public Service Commission or the governing authority of a municipally owned electric utility or a consolidated municipal utility improvement district determines that the marketing, selling, or marketing and selling of demand response into wholesale electricity markets by aggregators of retail customers or by retail customers is in the public interest.

23-18-1005. Applicability.

This subchapter does not prevent a nonresidential customer from opting out in accordance with § 23-3-405 of energy conservation programs and measures as defined in § 23-3-403.

/s/Rapert

APPROVED: 04/11/2013