

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1818

By: Representative Perry

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS CODE CONCERNING
CERTIFICATES OF CONVENIENCE AND NECESSITY FOR NEW
CONSTRUCTION TO SUPPLY A PUBLIC SERVICE OR TO EXTEND
A PUBLIC SERVICE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS CODE CONCERNING
CERTIFICATES OF CONVENIENCE AND NECESSITY
FOR NEW CONSTRUCTION TO SUPPLY A PUBLIC
SERVICE OR TO EXTEND A PUBLIC SERVICE.

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

SECTION 1. Arkansas Code § 23-3-201(b), concerning exemptions from the requirement of obtaining a certificate of public convenience and necessity, is amended to read as follows:

(b)(1) This section does not require a certificate of public convenience and necessity for:

~~(1)~~(A) The replacement or expansion of existing equipment or facilities with similar equipment or facilities in substantially the same location or the rebuilding, upgrading, modernizing, or reconstructing of equipment or facilities that increase capacity if no increase in the width of an existing right-of-way is required;

~~(2)~~(B) The construction or operation of equipment or facilities for supplying a public service that has begun under a limited or conditional certificate or authority as provided in §§ 23-3-203 – 23-3-205;

~~(3)~~(C) The extension of a public service:



~~(A)(i)~~ Within a municipality or district where a public service has been lawfully supplied;

~~(B)(ii)~~ Within or to territory then being served; or

~~(C)(iii)~~ That is necessary in the ordinary course;

~~(4)(D)~~ Except as provided in § 23-18-504(c), the construction or operation of a major utility facility as defined in the Utility Facility Environmental and Economic Protection Act, § 23-18-501 et seq., or any exemption under the Utility Facility Environmental and Economic Protection Act, § 23-18-501 et seq.; ~~or~~

~~(5)(2)(A)~~ This section does not require a certificate of public convenience and necessity for an electric utility that owns or has a legally recognized right-of-way, easement, or similar property right to property that is not being acquired by eminent domain and is traversed by the construction or connection of the following electric utility facilities:

~~(i)~~ The construction, operation, or connection of a ~~A~~ new or existing transmission or distribution substation, transmission switching station, or transmission metering point and associated facilities or the extension to such facilities, provided that the public utility owns or has a legally recognized right-of-way, easement, or similar property right to the property that is traversed by the construction or extension to or connection of the facilities;

~~(ii)~~ If the electric public utility is not an electric cooperative:

~~(a)~~ Any distribution lines to or from the facilities identified in subdivision (b)(2)(A)(i) of this section;

~~(b)~~ Transmission lines to or from the facilities identified in subdivision (b)(2)(A)(i) of this section of up to two (2) line miles in length with a voltage of greater than one hundred kilovolts (100 kV); or

~~(c)~~ Transmission lines to or from the facilities identified in subdivision (b)(2)(A)(i) of this section of up to five (5) line miles in length with a voltage of less than or equal to one hundred kilovolts (100 kV); or

~~(iii)~~ If the electric public utility is an electric cooperative:

~~(a)~~ Any distribution lines to or from the

facilities identified in subdivision (b)(2)(A)(i) of this section; or

(b) Any transmission lines up to five (5) line miles in length to or from the facilities identified in subdivision (b)(2)(A)(i) of this section if the electric cooperative has informed the landowners whose property is traversed according to the electric cooperative's business practices.

(B) Property that the public utility has previously acquired by eminent domain for the construction, operation, or connection of any other public utility facility is considered a legally recognized property right for the purposes of this subdivision (b)(2).

(C) This subdivision (b)(2) does not apply if the transmission or distribution lines to or from the facilities identified in subdivision (b)(2)(A)(i) of this section include a navigable waterway crossing subject to § 23-3-501 et seq.

APPROVED: 4/5/19