

Stricken language would be deleted from and underlined language would be added to present law.  
Act 701 of the Regular Session

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: S4/3/23  
**A Bill**

SENATE BILL 454

By: Senators *M. McKee, Gilmore, Stone*

By: Representative Beaty Jr.

## For An Act To Be Entitled

AN ACT CONCERNING PUBLIC UTILITY CONTRACTS FOR  
INTERRUPTIBLE SERVICE; AND FOR OTHER PURPOSES.

### Subtitle

CONCERNING PUBLIC UTILITY CONTRACTS FOR  
INTERRUPTIBLE SERVICE.

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

SECTION 1. Arkansas Code § 23-3-117 is amended to read as follows:

23-3-117. Contracts for interruptible service ~~with industrial users.~~

(a)(1) Public utilities are authorized to A public utility may  
contract for the sale, on an interruptible basis, of utility services at  
agreed prices for a definite term not to exceed twenty-five (25) years with  
customers whose use of the service is for manufacturing, generation,  
processing, preparation of products, or industrial purposes.

(2) However, the contracts A contract under subdivision (a)(1)  
of this section:

(A) Before becoming effective, shall:

(i) be subject Be subject to approval by the  
Arkansas Public Service Commission ~~before becoming effective; and~~

(ii) Demonstrate that the contract is in the public  
interest;

(B) These contracts, after After approval by the  
~~commission~~ Arkansas Public Service Commission, shall continue in full force  
and effect for the term ~~thereof~~ of the contract; and



(C)(i) Specify the amount of interruptible load to be achieved by the customer.

(ii) The amount under subdivision (a)(2)(C)(i) of this section shall be permitted to be altered only one (1) time per year.

(b)(1) An electric utility shall have a schedule that offers interruptible service when the electric utility's class of customers with the highest level of consumption per customer that has rates that include a demand component, and any successors to such a class, as the class existed on January 1, 2023, has an annual usage for the class as a whole in excess of five million megawatt hours (5,000,000 MWh).

(2) The rate schedule shall be consistent with and permitted by applicable regional transmission organization tariffs and any applicable order, rule, or regulation issued by the Federal Energy Regulatory Commission and the Arkansas Public Service Commission, in order to the greatest extent possible to qualify as a resource in the regional transmission organization's wholesale market.

(3) If permitted by the applicable regional transmission organization tariffs, the Federal Energy Regulatory Commission, and the Arkansas Public Service Commission, then the rate schedule's pricing shall be:

(A) Based on the embedded costs of the electric utility;  
and

(B) Consistent with the cost-of-service study and underlying allocation methods used to set the other rates of the electric utility.

(4) The rate schedule shall include the demand rate discount developed consistent with the method used in Order No. 35 issued by the Arkansas Public Service Commission in Docket No. 96-360-U, on October 16, 1998.

(c)(1) Except as otherwise provided or required by the applicable regional transmission organization or an applicable Federal Energy Regulatory Commission order, rule, or regulation, an electric utility shall not prohibit a customer from taking interruptible service based solely upon a fuel source the customer uses to meet the customer's contracted interruptible requirements.

(2) An electric utility customer's accounts that are taking

interruptible service under an electric utility's rate schedule for interruptible service shall not be eligible for net-metering or be allowed to participate in net-metering under the Arkansas Cost-Shifting Prevention Act of 2023, § 23-18-601 et seq., unless the Arkansas Public Service Commission has:

(A) On or before December 31, 2022, issued an order addressing an individual net-metering customer's application for approval of a net-metering facility with a name plate generating capacity in excess of ten thousand kilowatts (10,000 kW) if an individual net-metering customer takes service under an electric utility's rate schedule for interruptible service; and

(B) Determined that it is in the public interest for that individual interruptible customer to be a net-metering customer.

*/s/Gilmore*

**APPROVED: 4/11/23**