

Stricken language would be deleted from and underlined language would be added to present law.
Act 940 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S4/7/25 S4/14/25

A Bill

SENATE BILL 596

By: Senator M. McKee
By: Representative McAlindon

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING ENERGY; TO ESTABLISH A STATE ENERGY POLICY; TO REGULATE RETIREMENT OF DISPATCHABLE ELECTRIC GENERATION FACILITIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING ENERGY; TO ESTABLISH A STATE ENERGY POLICY; TO REGULATE RETIREMENT OF DISPATCHABLE ELECTRIC GENERATION FACILITIES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 15, Chapter 10, Subchapter 1, is amended to add an additional section to read as follows:

15-10-103. State energy policy.

(a) It is the policy of this state that the state shall have an adequate, affordable, reliable, dispatchable, secure, and resilient electric generation and transmission system.

(b) To further the policy described in subsection (a) of this section, the state shall seek to:

(1) Remove policy barriers to the development of a diverse electric generation portfolio;

(2) Maintain a regulatory environment that fosters growth and innovation sufficient to meet the state's growing demand for energy while



contributing to the regional and national energy supply, thereby reducing dependence on international energy sources; and

(3) Promote resources, tools, and infrastructure to enhance the state's ability to:

(A) Respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies for energy;

(B) Maintain an adequate supply of energy resources, including without limitation proven and cost-effective dispatchable electric generation to meet power grid demand; and

(C) Ensure the state's energy independence by removing policy barriers to the use of energy resources generated within the state.

(c) The state shall seek to:

(1) Promote the development of a secure supply chain from resource extraction to energy production and consumption;

(2) Maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a reasonable return on investment, recognizing that economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(3) Promote training and education programs focused on developing a comprehensive understanding of energy, including without limitation:

(A) Programs addressing:

(i) Energy conservation;

(ii) Energy efficiency;

(iii) Energy supply and demand; and

(iv) Energy-related workforce development; and

(B) Energy education programs in kindergarten through grade twelve (K-12).

(d)(1) State regulatory processes regarding energy should be streamlined to balance the economic costs of the regulation with the level of review necessary to ensure protection of the state's various interests.

(2) When federal action regarding energy is required, the state shall encourage expedited federal action and collaborate with United States Government agencies to expedite review.

(e) A state agency is encouraged to conduct state agency activities consistent with this section.

SECTION 2. Arkansas Code Title 23, Chapter 18, is amended to add an additional subchapter to read as follows:

Subchapter 13 – Retirement of Dispatchable Electric Generation Facilities

23-18-1301. Legislative findings.

The General Assembly finds that:

(1) The long-term economic health and well-being of Arkansas residents depends upon the availability and affordability of reliable sources of energy;

(2) Arkansas has abundant reserves of natural gas and other natural resources;

(3) The current economy and future economic development of Arkansas requires reliable, resilient, dispatchable, secure, and abundant supplies of electrical power;

(4) The demand for reliable, resilient, dispatchable electrical power is anticipated to significantly increase in the coming decades as Arkansas becomes home to additional manufacturing and other economic development projects that increase demand for electrical power;

(5) It is in the interest of this state that it be able to generate sufficient electricity within its borders to serve its own industrial, residential, and commercial demand and to power the state's own economy;

(6) The electrification of the United States' economy combined with unprecedented federal regulatory pressures have created an electric generation resource crisis;

(7) Existing state and federal policies with respect to energy do not adequately address the concerns of the General Assembly or Arkansas residents such that a comprehensive state energy policy is required;

(8) Current policies at the state and federal level do not adequately assess capacity, availability, reliability, or resilience of existing and new dispatchable, nuclear, or other emerging electric generating resources;

(9) Retirement of dispatchable electric generating resources is

not necessary for the protection of the environment or the health, safety, and welfare of the residents of this state;

(10) The health, happiness, safety, economic opportunity, and general welfare of Arkansas residents will be promoted and protected by the operation of dispatchable electric generating resources and, conversely, those interests would be harmed by the premature retirement of those generating resources;

(11) Arkansas can support a multitude of potential electric generating resources and energy fuel supply sources so as to be a national leader in the production of energy in all forms;

(12) Local economic development is essential to the health, happiness, safety, and general welfare of the residents of this state; and

(13) Local economic development requires an adequate supply of electricity to support new and expanding industries and is enhanced by robust employment at electric generating facilities, the local job multiplier effect of employment in the natural gas and electric generating industries, and state and local taxes and other forms of economic value creation for this state.

23-18-1302. Definitions.

As used in this subchapter:

(1) "Dispatchable" means a source of electrical power generation or biomass energy that is:

(A) Available on demand;

(B) Not intermittent; and

(C) Can either:

(i) Be adjusted to increase or decrease its power output upon request of a power grid operator or otherwise upon demand or request of a power grid operator; or

(ii) Have its power output adjusted in response to market or system needs;

(2) "Dispatchable electric generation facility" means a facility that uses water, coal, natural gas, geothermal, biomass, or nuclear power, or a combination of equivalent fuels and technologies to generate dispatchable, reliable electricity to provide to end users;

(3) "Electric generation asset" means a plant, facility,

equipment, or system that converts nonelectrical energy into electricity;

(4) "Intermittent" means:

(A) A source of electrical power generation from a solar photovoltaic, solar thermal heating, concentrating solar thermal collector, or other solar energy collection or generation system;

(B) A source of electrical power that generates energy by harnessing wind power or energy, whether through a turbine or other device;

(C) Anaerobic digestion or combined heat and power from solar, wind, or anaerobic digestion sources;

(D) Any short-duration energy storage, which includes any method of storing generated electricity for later dispatch to the power grid, whether alone or in conjunction with any other intermittent sources described in this subdivision (4), that is equivalent to less than forty-eight (48) hours of the average peak generation of the unit the short-duration energy storage is used to offset; and

(E) Conventional hydropower and pumped storage hydropower, unless they are capable of providing energy on demand, in which case they shall be deemed to be dispatchable;

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

(6) "Reliability" means having adequate dispatchable electric generation capacity to safely deliver electrical energy in the quantity, with the quality, and at a time that public utility customers demand;

(7) "Resilience" means having the ability to quickly and effectively respond to and recover from events that compromise power grid reliability;

(8) "Retirement" means the closure or the complete and permanent cessation of operations of a dispatchable electric generation facility; and

(9) "Secure" means to harden to a reasonable extent against an attack, including a cyberattack or a kinetic attack, or an extreme weather event.

23-18-1303. Retirement of dispatchable electric generation facilities.

(a)(1) Notwithstanding any provision of law to the contrary, the Arkansas Public Service Commission may approve or deny the retirement of a dispatchable electric generation facility owned by a public utility.

(2) Before retiring a dispatchable electric generation facility,

a public utility shall:

(A) Apply to the commission for an order approving the retirement; and

(B) Give the commission thirty-days' notice of the application.

(3) The application shall include a statement certifying the applicant's compliance with the requirements of this subchapter.

(4) The commission shall enter an order within one hundred eighty (180) days of receiving an administratively complete application to approve the application for retirement to:

(A) Approve the application for retirement;

(B) Approve the application for retirement with conditions; or

(C) Deny the application for retirement.

(b)(1) There is a rebuttable presumption against the retirement of a dispatchable electric generation facility.

(2) The commission shall not approve the retirement of a dispatchable electric generation facility, authorize a surcharge for the decommissioning of the dispatchable electric generation facility, or take any other action that authorizes or allows for the recovery of costs for the retirement of a dispatchable electric generation facility, including without limitation any stranded asset recovery, unless the presumption under subdivision (b)(1) of this section is rebutted by evidence sufficient for the commission to *find that the retirement is in the public interest, including without limitation evidence that:*

(A) The public utility will replace the retired dispatchable electric generation facility with new electric generation assets that:

(i) Are dispatchable by either the public utility or the regional transmission organization or independent system operator responsible for balancing load within the public utility's service area;

(ii) Maintain or improve the reliability and resilience of the power grid;

(iii) Maintain the minimum reserve capacity requirement established by the public utility's reliability coordinator; and

(iv) Have the same or higher capacity value and net

capability, unless the public utility can demonstrate that the capacity value and net capability is not necessary to provide reliable service;

(B) The retirement will not harm the public utility's ratepayers by causing the public utility to incur any net incremental costs to be recovered from ratepayers that could be avoided by continuing to operate the dispatchable electric generation facility proposed for retirement in compliance with applicable law;

(C) The decision to retire the dispatchable electric generation facility is not the result of any financial incentives or benefits offered by a United States Government agency; and

(D) The public utility will not commence retirement or decommissioning of the electric generating unit until the replacement generating capacity meeting the requirements of subdivision (b)(2)(A) of this section is fully constructed, permitted, and in operation, unless the public utility can demonstrate that it is necessary under the circumstances to commence retirement or decommissioning of the existing electric generating unit earlier.

(c) At a minimum, the public utility shall provide the commission with evidence of all known direct and indirect costs of retiring the dispatchable electric generation facility and demonstrate that cost savings will result to customers as a result of the retirement of the dispatchable electric generation facility.

(d)(1) Under the commission's report under § 23-18-1104, the commission shall prepare and submit an annual supplemental report to the Joint Committee on Energy no later than December 1 of each year in which the commission issues an order on an application under this subchapter.

(2) The annual supplemental report required under subdivision (d)(1) of this section shall include:

(A) The number of applications by public utilities to retire dispatchable electric generation facilities, the nameplate capacity of each of the dispatchable electric generation facilities, and whether the application was approved, approved with conditions, or denied;

(B) The impact of any commission-approved retirement or retirement with conditions of a dispatchable electric generation facility on the:

(i) State's electric generation fuel mix;

(ii) Required capacity reserve margins for the public utility;

(iii) Need for capacity additions or expansions at new or existing facilities as a result of the retirement; and

(iv) Need for additional purchase power or capacity reserve arrangements; and

(C) Whether or not the retirement or retirement with conditions resulted in stranded costs for the ratepayer that will be recovered by the public utility through a surcharge or some other separate charge on the ratepayer's bill.

(e) This section is applicable to a dispatchable electric generation facility that is one hundred megawatts (100 MW) or larger located in Arkansas.

(f) This subchapter does not apply to the retirement or repowering of a dispatchable electric generation facility under any settlement, consent decree, or other resolution of any litigation or legal proceeding executed or ordered before the effective date of this subchapter.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the continued unabated retirement of needed electric generating resources threatens to harm employment, tax revenue, and utility rates and is creating a crisis with respect to the state's ability to meet current and projected future energy demands; that this act will manage the retirement of needed electric generating resources for this state; and that this act is immediately necessary because continued electric generating resources are necessary for employment, tax revenue, and regular utility rates. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/M. McKee

APPROVED: 4/21/25