

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H3/20/15 H3/24/15 H3/26/15*
90th General Assembly **A Bill**
Regular Session, 2015

HOUSE BILL 1633

By: Representative Sabin

For An Act To Be Entitled

AN ACT TO ALLOW A UTILITY TO ENTER INTO A POWER
PURCHASE AGREEMENT; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW A UTILITY TO ENTER INTO A POWER
PURCHASE AGREEMENT.

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

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

23-18-108. Power purchase agreement.

(a) As used in this section:

(1) "Power purchase agreement" means an agreement between a generator of electricity and a utility for the sale of electricity, generation capacity, or ancillary products to the utility; and

(2) "Utility" means an electric utility subject to the jurisdiction of the Arkansas Public Service Commission.

(b) A utility may enter into a power purchase agreement.

(c) A utility shall not enter into a power purchase agreement for a term of more than five (5) years or recover the cost of the power purchase agreement in rates unless the commission finds that:

(1) The cost of the power purchase agreement is reasonable and prudent;

(2) The power purchase agreement will provide savings for retail customers as compared to other generation and power supply options over the term of the power purchase agreement;



(3) The power purchase agreement is required by public convenience and necessity;

(4) The power purchase agreement is necessary to supplement or replace the utility's existing generation sources; and

(5) Approval of the power purchase agreement is in the public interest.

(d) After making the findings required under subsection (c) of this section, the commission may enter an order approving the power purchase agreement and providing for the utility to recover the costs of the power purchase agreement over the term of the power purchase agreement.

(e)(1)(A) If the commission approves a power purchase agreement under this section, the commission may authorize the utility to recover an additional sum as determined by the commission in recognition of the unique characteristics of the power purchase agreement if the commission finds that including the additional sum is in the public interest.

(B) However, an additional sum is not appropriate if the generator party to the power purchase agreement is an affiliate of the utility.

(2) In determining the additional sum allowed under subdivision (e)(1) of this section, the commission may consider:

(A) The risks of the power purchase agreement;

(B) A commensurate return on the power purchase agreement as would be allowed for an equivalent investment in a power plant;

(C)(i) An equitable sharing of any savings between the utility and the retail customers of the utility.

(ii) However, the retail customers' share shall not be less than seventy-five percent (75%); and

(D) Any other reasonable mechanisms for determining the additional sum that:

(i) Are in the public interest;

(ii) Equitably balance the interests of the utility and the retail customers of the utility; and

(iii) Provide results that are comparable to the criteria described in subdivision (e)(2)(B) or (C) of this section.

(3) If the commission authorizes an additional sum under this subsection, the utility shall recover the additional sum over the entire term

of the power purchase agreement in the same manner as it recovers the cost of the power purchase agreement as long as electricity, generation capacity, or ancillary products are being delivered in accordance with the terms of the power purchase agreement.

(f) This section does not apply to an electric cooperative corporation established under the Electric Cooperative Corporation Act, § 23-18-301 et seq.

/s/Sabin