

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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 679

By: Senator Teague

## For An Act To Be Entitled

AN ACT TO PROVIDE RETAIL CHOICE TO CUSTOMERS OF CERTAIN MUNICIPAL ELECTRIC UTILITIES; TO ESTABLISH THE MUNICIPAL RETAIL CHOICE PROGRAM ACT; AND FOR OTHER PURPOSES.

## Subtitle

TO PROVIDE RETAIL CHOICE TO CUSTOMERS OF CERTAIN MUNICIPAL ELECTRIC UTILITIES; AND TO ESTABLISH THE MUNICIPAL RETAIL CHOICE PROGRAM ACT.

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

SECTION 1. Arkansas Code Title 14, is amended to add an additional chapter to read as follows:

### CHAPTER 209

### MUNICIPAL RETAIL CHOICE PROGRAM ACT

#### 14-209-101. Title.

This chapter shall be known and may be cited as the "Municipal Retail Choice Program Act".

#### 14-209-102. Purpose.

(a) The purpose of this chapter is to provide retail customers of certain municipal electric utilities the ability to choose alternative power providers in order to:

- (1) Reduce the cost of electricity;



- (2) Create greater price stability for electric services;
- (3) Achieve renewable energy objectives; or
- (4) Any combination of objectives listed in subdivisions (a)(1)-(3) of this section.

(b) This chapter is not intended to alter the distribution service area of any municipal electric utility or any utility regulated by the Arkansas Public Service Commission.

14-209-103. Definitions.

As used in this chapter:

(1) "Municipal electric utility" means a utility system owned or operated by a municipality that provides electricity;

(2) "Municipal retail choice program" means a program that gives a customer of a municipal electric utility an option to choose between two (2) or more power providers to be the power provider for the customer;

(3) "Power provider" means an entity that is obligated to deliver power requirements to a municipal electric utility for use by one (1) or more retail customers;

(4) "Power requirements" means the electric energy, power, capacity, and ancillary services needed to serve one (1) or more retail customers of a municipal electric utility that is separate from the distribution, metering, and retail furnishing of electricity; and

(5) "Renewable energy" means electric energy generated by solar, wind, hydroelectric, geothermal, or biomass resources, including without limitation fuel cells and micro turbines that generate electricity if the fuel source is entirely derived from renewable resources.

14-209-104. Requirement to provide electricity options.

(a) A municipal electric utility shall follow the procedures described in subsection (b) of this section if:

(1) The municipal electric utility receives more than eighty percent (80%) of its power requirements from a single power provider; and

(2) During a fiscal quarter that occurs after January 1, 2021, the municipal electric utility has been charged by its power provider an amount that is more than fifty percent (50%) greater than the amount charged in the same fiscal quarter of the previous year, when adjusted for changes in

consumption.

(b) A municipal electric utility described in subsection (a) of this section shall, within two (2) years:

(1) Terminate the power provider's contract; or

(2) Enact a municipal retail choice program as described in § 14-209-105.

(c) This section does not apply to a municipal electric utility that provides retail service to more than ten percent (10%) of its total number of customers at locations outside the jurisdictional limits of the municipality.

14-209-105. Municipal retail choice program.

(a) Before enacting a municipal retail choice program under this chapter, the governing body of a municipal electric utility shall determine:

(1) The proper allocation of costs to retail customers for the operation, maintenance, metering, billing, and administration of the municipal electric utility's transmission and distribution system, including the amounts for payments in lieu of taxation and reserves that the governing body deems appropriate;

(2) The amount of any stranded investment, if any, that would result from the municipal retail choice program and the method that will be used to recover the stranded investments;

(3) Rates and rate structures to be used in the municipal retail choice program;

(4) Qualifications that power providers are required to meet to participate in the municipal retail choice program;

(5) The number of power providers that will be able to participate in the municipal retail choice program, that shall not be less than two (2) and not more than four (4);

(6) The retail options that will be available to customers, including the option to elect that some or all of the power provided originates from renewable energy or is offset by credits or attributes from renewable energy;

(7) Criteria that a customer is required to meet to participate in the municipal retail choice program;

(8) The method to inform customers about the municipal retail choice program;

(9) The enrollment periods and duration of retail options for customers who participate in the municipal retail choice program;

(10) Appropriate safeguards for consumers;

(11) Methods to manage net metering and energy efficiency within a municipal retail choice program;

(12) The transition period to a municipal retail choice program, which shall not exceed one (1) year;

(13) The power provider that will be used by the municipal electric utility to provide service to customers who do not make a selection of municipal retail choice program power providers; and

(14) Any other utility matters that the governing body of the municipal electric utility believes to be important to a municipal retail choice program.

(b) A municipal electric utility may enter into any billing and metering arrangements with power providers as the governing body of the municipal electric utility deems appropriate.

(c) A municipal retail choice program shall be established and administered in a fair and competitive manner.

(d) Before the establishment of a municipal retail choice program, a municipal electric utility may consult with one (1) or more power providers in the development of rules that may govern a municipal retail choice program.

14-209-106. Regulatory jurisdiction.

(a) A power provider's participation in a municipal retail choice program shall not cause the power provider to be subject to the jurisdiction of the Arkansas Public Service Commission.

(b) Notwithstanding subsection (a) of this section, the commission may take any action as the commission deems necessary or appropriate to prevent a regulated electric utility from prohibiting, disrupting, or delaying a municipal retail choice program.

14-209-107. Rights not affected.

(a) This chapter shall not:

(1) Limit the access of municipal electric utilities to wholesale electric markets; or

(2) Impair the contracts, covenants, or obligations between a municipal electric utility and the bondholders of revenue bonds issued by a municipal electric utility.

(b) This chapter does not alter:

(1) Any contract between a municipal electric utility and a power provider, customer, or other entity; or

(2) The authority of a municipal governing body to regulate and supervise the operations of a municipal electric utility.

14-209-108. Evaluation and termination.

(a) The governing body of a municipal electric utility with a municipal retail choice program shall conduct an evaluation of the costs and benefits of the municipal retail choice program at regular intervals that shall not exceed five (5) years.

(b) If the governing body of the municipal electric utility determines that the municipal retail choice program is not in the best interests of its customers, the municipal electric utility may discontinue the municipal retail choice program.