

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 718

By: Senator B. Ballinger

For An Act To Be Entitled

AN ACT TO ALLOW CERTAIN UTILITY CONSUMERS TO TRANSFER ELECTRIC UTILITY SERVICES TO ANOTHER UTILITY PROVIDER IN CERTAIN CIRCUMSTANCES; TO ESTABLISH THE TRANSFER OF ELECTRIC UTILITY SERVICES BY A LANDOWNER ACT; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW CERTAIN ELECTRIC UTILITY CONSUMERS TO TRANSFER SERVICES TO ANOTHER UTILITY PROVIDER IN CERTAIN CIRCUMSTANCES; AND TO ESTABLISH THE TRANSFER OF ELECTRIC UTILITY SERVICES BY A LANDOWNER ACT.

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

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

Subchapter 11 – Transfer of Electric Utility Services By a Landowner Act

23-18-1101. Title.

This subchapter shall be known and may be cited as the "Transfer of Electric Utility Services by a Consumer Act".

23-18-1102. Purpose.

(a) It is the purpose of this subchapter to assist landowners to



obtain utility services by making utility services reasonably available.

(b) This subchapter shall not relieve a landowner from the obligation to pay regular fees and costs for connecting to utility services or from the obligation to pay the regular cost of the utility services.

23-18-1103. Definitions.

As used in this subchapter:

(1) "Electric utility service" means a service:

(A) Provided by an electric utility regulated by the Arkansas Public Service Commission under § 23-4-201; and

(B) That is related to the generation, production, transmission, or distribution of electricity:

(i) To or for the public;

(ii) For compensation; and

(iii) For lighting, heat, power, cooking, or any similar use;

(2) "Landowner" means an individual or entity that:

(A) Purchases an electric utility service; and

(B) Owns property within the jurisdiction of a utility provider;

(3) "Utility provider" means an electric utility that provides the transmission, distribution, or delivery of electricity; and

(4) "Utility services" means:

(A) The transmission of communications;

(B) The transmission, distribution, or delivery of electricity, water, or natural gas for public use;

(C) Sewer service;

(D) Fire protection;

(E) Police protection;

(F) Drainage and storm water management; or

(G) Any other offering by the utility provider that materially affects a landowner's ability to develop, use, or expand the uses of the landowner's property.

23-18-1104. Transfer to adjoining utility provider.

(a)(1) A landowner seeking additional utility services may have its

service area removed from a utility provider in which the landowner's property is located and transferred to the territory of another utility provider if the landowner is within five thousand feet (5,000') of the territory of the other utility provider and the other territory offers and provides utility services that are not available within the territory of the original utility provider.

(2) However, before a transfer of service area is allowed, the utility provider in which the land is located shall have an opportunity to provide the additional utility services to the landowner.

(b) The following procedure to effect a transfer of service area under subsection (a) of this section shall apply:

(1)(A) The landowner shall file a statement with the utility provider in which the land is located listing the additional utility service being sought and stating that:

(i) The service area and territory of the utility provider does not provide utility services necessary to create improvements, provide employment or additional employment, subdivide, or otherwise maximize the use and value of the property;

(ii) All the land in the request composes one (1) service area that is contiguous to another utility provider in a different territory;

(iii) The additional utility services are available in the territory of another utility provider that borders the land subject to the request to transfer service areas; and

(iv)(a) The original utility provider is requested to make a commitment to take substantial steps, within ninety (90) days after the statement is filed, to determine and work with interested stakeholders toward providing the additional utility services within the territory and, within each thirty-day period thereafter, to continue taking steps to demonstrate a consistent commitment to have available the utility services within a reasonable time, as determined by the kind of utility services requested.

(b) The commitment shall be made by the original utility provider in writing to the landowner within thirty (30) calendar days of the filing of the statement, or the landowner may seek to have the land detached from the service area of the original utility provider

and transferred to the service area of other utility provider.

(c) The landowner shall take appropriate steps to make the land accessible to any provider of utility services and comply with reasonable requests of providers of utility services that are necessary for the utility services to be provided within the service area.

(B) A copy of the statement shall be filed with the Arkansas Public Service Commission;

(2) The landowner may request the transfer of service area for the land into another utility provider and detach the land from the service area and territory of the original utility provider in which the land is currently located if:

(A) The original utility provider in which the land is located fails to execute a commitment to provide utility services within thirty (30) days after the statement is filed; or

(B) The original utility provider executes the commitment to provide utility services but fails to take the action required under subdivision (b)(1)(A) of this section;

(3) The land shall be transferred into the service area of the other utility provider if, after a request by the landowner, the commission indicates by order that the territory is within five thousand feet (5,000') of the other utility provider territory and utility services that are not offered by the original utility provider are available to the landowner in the new utility provider's territory and approves the request for transfer; and

(4) The land shall remain in the territory of the original utility provider until it is transferred to the other utility provider by order of the commission.

(c) A transfer under this subchapter is not eligible for retransfer under this section for at least two (2) years.

(d) This section shall apply to residential, commercial, industrial, and unimproved land.

23-18-1105. No split or island.

(a) This subchapter does not allow a utility provider to be split in half or to have any of the land within its jurisdiction separately encircled that creates an island of that utility provider within the boundaries of

another utility provider.

(b) Any detachment and transfer occurring that creates a split or island is void, and all properties shall be returned to the original utility provider.

23-18-1106. Hearing.

(a) The Arkansas Public Service Commission has exclusive jurisdiction to hear all matters related to this subchapter.

(b)(1)(A) Upon petition of either affected utility provider or a landowner, the commission shall hold a hearing.

(B) The utility providers, the landowner who requested transfer, and a subsequent landowner of the property after the transfer request are parties to the hearings.

(2) The commission shall make findings as are necessary to determine whether there has been substantial compliance or noncompliance with this subchapter.

23-18-1107. Filing.

(a) All documents produced by landowners, utility providers, or others relating to detachment and transfer under this subchapter shall be filed with the Arkansas Public Service Commission with copies served upon the utility providers and affected landowners.

(b) The commission's file shall be considered the official record of all matters and proceedings under this subchapter.

23-18-1108. Provision of electric utility services.

In a matter to transfer electric utility service under this subchapter, if a utility provider from which the landowners detached and transfer service areas determines that the scheduled utility services are available or became available to the detaching landowners by the utility provider to which the landowners were annexed into, the landowners shall automatically be detached and annexed back into the original utility provider after the expiration of one hundred eighty (180) days following the date the schedule of utility services became available to the landowners and the landowners have not used the utility services.

23-18-1109. Rules.

The Arkansas Public Service Commission shall promulgate rules to implement this subchapter.