

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

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 463

By: Senators M. McKee, C. Penzo, M. Johnson, R. Murdock, J. Petty, J. Boyd, J. Bryant, Caldwell, A. Clark, Crowell, B. Davis, Dees, J. Dismang, J. English, Flippo, Gilmore, Hester, Hill, Irvin, B. Johnson, Rice, J. Scott, Stone, G. Stubblefield, D. Wallace

By: Representatives M. Brown, McAlindon, Beaty Jr., Gramlich, Achor, J. Moore, R. Scott Richardson

For An Act To Be Entitled

AN ACT TO REQUIRE THE ARKANSAS PUBLIC SERVICE COMMISSION TO APPROVE OR DENY SETTLEMENT AGREEMENTS CONCERNING CLOSING OR ELIMINATING ELECTRIC GENERATION UNITS OR TRANSMISSION ASSETS BETWEEN PUBLIC UTILITIES AND CERTAIN ENTITIES; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE THE ARKANSAS PUBLIC SERVICE COMMISSION TO APPROVE OR DENY SETTLEMENT AGREEMENTS CONCERNING CLOSING OR ELIMINATING ELECTRIC GENERATION UNITS OR TRANSMISSION ASSETS.

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

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

23-18-111. Closure of electric generation unit or transmission asset by settlement agreement – Notice and commission approval required.

(a)(1) A public utility shall file an application with the Arkansas Public Service Commission seeking approval of a settlement agreement proposed between the United States Government, an agency of the United States, or any other third party if the purpose of all or part of the settlement agreement is the closure, deactivation, or decommissioning of an electric generation unit or a transmission asset located in this state.



(2) As used in this section, "settlement agreement" includes a consent decree that is being proposed in a formal judicial proceeding.

(b) The application required under subsection (a) of this section shall include:

(1) The terms and conditions of the proposed settlement agreement; and

(2) An acknowledgement that the public utility shall not enter into the settlement agreement until the commission approves the proposed settlement agreement.

(c) The commission shall approve or deny a proposed settlement agreement submitted under subdivision (a)(1) of this section using the following standards and procedures:

(1) Upon receipt of a proposed settlement agreement and if requested by the public utility, the commission shall implement reasonable and appropriate procedures to protect confidential and proprietary information, but the reasonable and appropriate procedures shall not prevent the commission or the public from accessing information sufficient to evaluate compliance with the standards under this section;

(2) The commission shall request testimony or other legal pleadings from the Office of the Attorney General, including the staff assigned to the Consumer Utilities Rate Advocacy Division, and other agencies of the state with expertise in the legal issues giving rise to the proposed settlement agreement to assist in the commission's evaluation of:

(A) Compliance with the standards under this section; and

(B) Any underlying legal issues proposed for resolution in the settlement agreement; and

(3)(A) After testimony and legal pleadings filed as described in subdivision (c)(2) of this section, in order to approve the proposed settlement agreement, the commission shall determine that there is clear and convincing evidence that:

(i) The legal claims being resolved in the proposed settlement agreement are based on a reasonable interpretation of existing law;

(ii) The proposed settlement agreement does not commit the public utility to an action that exceeds regulations at a cost to consumers, including without limitation an action the commission finds to be

driven by shareholder or a shareholder equivalent, environmental, or sustainability goals rather than applicable state or federal law; and

(iii) The public utility's decision to enter into the proposed settlement agreement is reasonable and prudent.

(B)(i) Clear and convincing evidence shall include without limitation the production of contemporaneous documentation and other evidence by the public utility supporting the prudence of the public utility's decision making.

(ii) In the absence of the contemporaneous documentation or other evidence required under subdivision (c)(3)(B)(i) of this section, the public utility may obtain an independent, retrospective analysis demonstrating that the public utility's actual decision to enter into the settlement agreement is a reasonable and prudent course of action.

(d) This subchapter does not apply to any settlement, consent decree, or other resolution of any litigation or legal proceeding executed or ordered before the effective date of this act.