

ARKANSAS PUBLIC SERVICE COMMISSION

2003 APR -1 A 11: 03

FILED

IN THE MATTER OF A RULEMAKING TO)	
REPEAL CERTAIN RULES IN)	
COMPLIANCE WITH ACT 204 OF 2003)	DOCKET NO. 03-054-R
	ORDER NO. 1
IN THE MATTER OF A RULEMAKING TO)	
AMEND TRANSITION COST GUIDELINES)	
IN COMPLIANCE WITH ACT 204 OF 2003)	DOCKET NO. 03-055-R
	ORDER NO. 1
IN THE MATTER OF A RULEMAKING TO)	
AMEND AFFILIATE TRANSACTION)	
RULES – ELECTRIC IN COMPLIANCE)	DOCKET NO. 03-056-R
WITH ACT 204 OF 2003)	ORDER NO. 1

ORDER

The Electric Utility Regulatory Reform Act of 2003 (Act 204 of 2003) became effective on February 21, 2003. Act 204 amended and repealed various statutes that had previously been enacted to provide for retail electric competition.¹ As part of the process of implementing Act 204, Section 10 of the Act provides in part:

No later than ninety (90) days after the effective date of this subsection, the commission shall commence a rulemaking proceeding to identify and to repeal or amend all rules and regulations adopted by the commission to facilitate, or in anticipation of, retail electric competition which are inconsistent with, have been rendered unnecessary by, or have been superseded by this act of 2003.

This directive of Act 204 suggests the need for at least three distinct proceedings which relate to the Commission's existing rules.

¹ Including Act 1556 of 1999 as amended by Act 324 of 2001.

First, certain rules adopted by the Commission to facilitate, or in anticipation of, retail electric competition, should be considered for repeal in their entirety because they have been rendered unnecessary by Act 204. These rules include:

- Minimum Filing Requirements Market Power Analysis
- Customer Education Guidelines – Electric Market
- Minimum Filing Requirements for the Functional Unbundling of Electric Utility Tariffs
- Rules for Unbundling Competitive Customer Services
- Standard Service Package Guidelines – Electric
- Rules Governing Exchange of Data
- Licensing Requirements for Energy Service Providers (amends RPP)

To comply with Section 10 of Act 204 of 2003 and pursuant to the Commission's general authority to adopt rules in Ark. Code Ann. §§ 23-2-301, 23-2-304 (a) (3), and 23-2-305, Docket No. 03-054-R is hereby established to identify and to repeal all rules and regulations adopted by the Commission to facilitate, or in anticipation of, retail electric competition which have been rendered unnecessary by Act 204 of 2003.

Second, the *Transition Cost Guidelines* as adopted by the Commission to facilitate, or in anticipation of, retail electric competition pursuant to Act 1556 (as amended) should be amended because they are inconsistent with, have been rendered unnecessary by, or have been superseded by Act 204 of 2003. Section 9 of Act 204

limited the incurrence period, specified a period of time for recovery, and otherwise resulted in modifications to the transition cost provisions of Act 1556 (as amended).

To comply with Section 9 of Act 204 of 2003 and pursuant to the Commission's general authority to adopt rules in Ark. Code Ann. §§ 23-2-301, 23-2-304 (a) (3), and 23-2-305, Docket No. 03-055-R is hereby established to identify and to amend the *Transition Cost Guidelines* adopted by the Commission which are inconsistent with, have been rendered unnecessary by, or have been superseded by Act 204 of 2003.

Third, the *Affiliate Transaction Rules - Electric* as adopted by the Commission to facilitate, or in anticipation of, retail electric competition pursuant to Act 1556 (as amended) should be amended because they are inconsistent with, have been rendered unnecessary by, or have been superseded by Act 204 of 2003. Section 7 of Act 204 provides:

All transactions among or between a regulated electric public utility and any of its divisions, components or affiliates that are not regulated by the commission shall be subject to such rules as may be promulgated by the commission

To comply with Section 7 of Act 204 of 2003 and pursuant to the Commission's general authority to adopt rules in Ark. Code Ann. §§ 23-2-301, 23-2-304 (a) (3), and 23-2-305, Docket No. 03-056-R is hereby established to identify and to amend the *Affiliate Transaction Rules – Electric* which are inconsistent with, have been rendered unnecessary by, or have been superseded by Act 204 of 2003.

Therefore, these three dockets shall proceed as follows in order to consider the repeal or amendment of the designated Commission rules.

Accordingly, the Commission orders as follows:

1. The following procedural schedule is established in Docket No. 03-054-R for consideration of the repeal of certain rules adopted by the Commission to facilitate, or in anticipation of, retail electric competition, which should be repealed in their entirety because they have been rendered unnecessary by, or have been superseded by Act 204:

- a. General Staff shall file its proposal detailing the rules it proposes to repeal, with supporting comments, by 12:00 p.m. on May 9, 2003.
- b. Initial Comments on Staff's Proposal shall be filed by 12:00 p.m. on May 30, 2003.
- c. Reply Comments shall be filed by 12:00 p.m. on June 6, 2003.
- d. A public hearing to consider these issues is hereby set to begin at 9:30 a.m., June 17, 2003 in Commission Hearing Room No. 1, Arkansas Public Service Commission Building, 1000 Center Street, Little Rock, Arkansas.

2. The following procedural schedule is established in Docket No. 03-055-R for consideration of the amendment of the *Transition Cost Guidelines*:

- a. General Staff shall file Amended Transition Cost Guidelines, with supporting comments, by 12:00 p.m. on July 18, 2003.
- b. Initial Comments on Staff's Proposal shall be filed by 12:00 p.m. on August 8, 2003.

c. Reply Comments shall be filed by 12:00 p.m. on August 22, 2003.

d. A public hearing to consider these issues is hereby set to begin at 9:30 a.m., September 3, 2003 in Commission Hearing Room No. 1, Arkansas Public Service Commission Building, 1000 Center Street, Little Rock, Arkansas.

3. The procedural schedule for Docket No. 03-056-R for consideration of amendment of the *Affiliate Transaction Rules – Electric* shall be established at a later time.

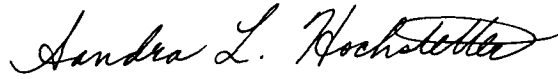
4. Any entity desiring to participate as a party in one or more of the rulemaking proceedings established herein may do so by filing written comments in accordance with the established procedural schedule and in compliance with the Commission's *Rules of Practice and Procedure*.

5. The Secretary of the Commission forthwith shall cause a copy of this order to be served on all jurisdictional electric utilities, the Attorney General of the State of Arkansas, the Arkansas Electric Energy Consumers, and the Commercial Energy Users Group.

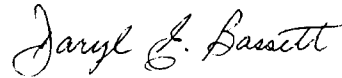
6. Further, the Secretary of the Commission forthwith shall cause notice of the subject matter and procedural schedule for Docket Nos. 03-054-R and 03-055-R to be published in accordance with Rule 12.04 of the Commission's *Rules of Practice and Procedure*.

BY ORDER OF THE COMMISSION.

This 1st day of April, 2003.



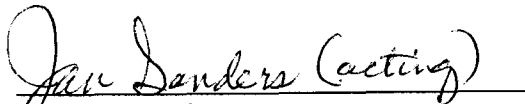
Sandra L. Hochstetter, Chairman



Daryl E. Bassett, Commissioner

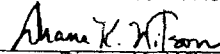


Randy Bynum, Commissioner



Diana K. Wilson
Secretary of the Commission

I hereby certify that the following order issued by the Arkansas Public Service Commission has been served on all parties of record this date by the U.S. mail with postage prepaid, using the address of each party as indicated in the official docket file.



Diana K. Wilson

Secretary of the Commission

Date 4-1-03 