

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF FORMULA RATE PLAN)
FILINGS OF ENTERGY ARKANSAS, INC.,)
PURSUANT TO APSC DOCKET NO. 15-015-U)

DOCKET NO. 16-036-FR
ORDER NO. 45

ORDER

On March 12, 2021, Entergy Arkansas, LLC (formerly Entergy Arkansas, Inc.) (EAL), Arkansas Electric Energy Consumers, Inc., and Walmart Inc. (hereinafter, Joint Parties) filed with the Arkansas Public Service Commission (Commission) a *Joint Motion to Request Further Consideration* (Joint Motion).

The Joint Parties recite that on December 15, 2020, EAL filed a *Petition for Rehearing of Order No. 40 and for Detailed Findings of Fact and Request for Clarification* (Petition) and that on January 14, 2021, pursuant to Rule 4.14(e) of the Commission's *Rules of Practice and Procedure* (RPP), Order No. 43 granted EAL's Petition for the sole purpose of allowing further consideration by the Commission (Limited Rehearing Order). Joint Motion ¶ 4 (Doc. #720). The Joint Parties state that the record of this proceeding supports that an appeal and protracted litigation of the netting adjustment, which was and is a strongly contested issue among the parties, appear likely, but they are aware that Senate Bill 489 and House Bill 1662 (Legislation) were introduced before the General Assembly on March 5 and 8, 2021; that House Bill 1662 was passed unanimously by the House Insurance and Commerce Committee on March 10, 2021, with no one speaking in opposition; that House Bill 1662 was passed by the House of Representatives on March 11, 2021, by a vote of 94 to 0; and that Senate Bill 489 was passed by the Insurance and Commerce Committee on March 11, 2021. Further, Joint Movants understand that the Legislation would clarify several matters regarding the operation of a utility's formula rate review mechanism, including the

appropriate application of a netting adjustment, which would provide further guidance to the Commission regarding the issues that are the subject of EAL's Petition. *Id.* at ¶ 5.

The Joint Parties note that under Rule 4.14(d)(5) and (6), the Commission may issue an order granting rehearing solely for the purpose of further consideration or take any other action it deems appropriate, while under Rule 4.14(e), if the Commission does not, within sixty days of the Limited Rehearing Order, issue an order granting or denying the requested rehearing or setting a hearing on the request, the application for rehearing shall be deemed denied, for purposes of Ark. Code Ann. §§ 23-2-422 and 423. The Joint Parties therefore request that, in order to provide the Commission time to consider potential further prescriptive instructions from the General Assembly specific to EAL's Rider FRP which may resolve the netting adjustment and numerous other issues pertaining to extension of EAL's Rider FRP, and to help mitigate the likelihood of protracted appellate litigation, the Commission grant further rehearing expressly for the purpose of considering the new Legislation and extend the timeframe for that rehearing by an additional thirty days or otherwise set the matter for hearing within that timeframe consistent with the provisions of Rule 4.14(e). *Id.* at ¶¶ 6-7.

The Joint Parties recite that the Office of Arkansas Attorney General Leslie Rutledge, Hospitals and Higher Education Group, and the Federal Executive Agencies have authorized Joint Movants to represent that they do not oppose this Joint Motion and that the General Staff of the Commission has authorized Joint Movants to represent that it will not be filing a response to the Joint Motion. *Id.* ¶ 8.

Pursuant to Rule 4.14 of the RPPs, the Commission grants the Petition for the purpose of reopening the Docket for further consideration of evidence and argument on

the effect of the Legislation should those bills become law. The Parties are instructed to propose a procedural schedule, including a date for a hearing if needed, to address any evidence and argument. The Commission will rule on the substantive issues raised by EAL's Petition after all evidence and argument has been filed and pending further proceedings.

BY ORDER OF THE COMMISSION.

This 12th day of March, 2021.



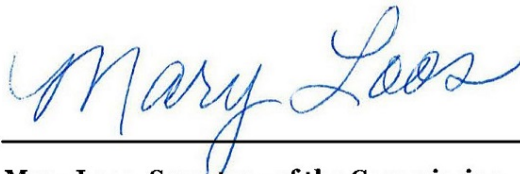
Ted J. Thomas, Chairman



Kimberly A. O'Guinn, Commissioner



Justin Tate, Commissioner



Mary Loos, Secretary of the Commission

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or
 Electronic mail using the email address of each party as indicated in the official docket file.