

BEFORE THE  
ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF FORMULA RATE )  
PLAN FILINGS OF ENTERGY ARKANSAS, ) DOCKET NO. 16-036-FR  
INC. PURSUANT TO APSC DOCKET NO. )  
15-015-U )

**JOINT MOTION TO REQUEST FURTHER CONSIDERATION**

Come now Entergy Arkansas, LLC (“EAL” or the “Company”), the Arkansas Electric Energy Consumers, Inc. (“AEEC”), and Walmart Inc. (“Walmart”) (hereinafter collectively, the “Joint Movants”) and for this Joint Motion to Request Further Consideration (“Joint Motion”) state as follows:

1. On July 7, 2020, EAL filed an application with the Arkansas Public Service Commission (“APSC” or the “Commission”) pursuant to EAL’s Rate Schedule No. 44, Formula Rate Plan Rider (“Rider FRP”), which included the Rider FRP 2020 Evaluation Report and a request to extend the term of Rider FRP for another five years.

2. On October 30, 2020, the parties participating in the first phase of this proceeding submitted a Stipulation, Amended Joint Issues List, and Request to Excuse Witnesses (the “Stipulation”) resolving all but one issue (the “netting adjustment”).<sup>1</sup>

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<sup>1</sup> Federal Executive Agencies (“FEA”) filed a request to be excused from the first phase of this proceeding, which was granted by the Commission on October 21, 2020, in Order No. 34. Walmart did not participate in the review of the 2020 Evaluation Report, consistent with Order No. 31.

3. A hearing with respect to the first phase of this proceeding was held on November 4, 2020, and on December 11, 2020, the Commission issued Order No. 40 approving the Stipulation and finding against EAL on the netting adjustment.

4. On December 15, 2020, EAL petitioned for rehearing of Order No. 40, and on January 14, 2021 the Commission issued Order No. 43 pursuant to Rule 4.14(e) of the Commission's Rules of Practice and Procedure ("RPP") granting EAL's Petition for the sole purpose of allowing further reconsideration by the Commission.

5. 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. However, Joint Movants are aware that Senate Bill 489 and House Bill 1662 (the "legislation") were introduced before the General Assembly on March 5 and 8, 2021, that the 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 for rehearing and extension request.

6. RPP 4.14(d)(5) and (6) provide that, in response to an application for rehearing, the Commission may issue an order granting rehearing solely for the purpose of further consideration or take any other action it deems appropriate. Additionally, RPP

4.14(e) provides that if the Commission issues an order granting rehearing “solely for the purpose of further consideration” prior to the thirty-day period, which the APSC did in Order No. 43, then “the application for rehearing shall not be deemed denied. However, if the Commission does not, within sixty (60) 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.”

7. Accordingly, Joint Movants 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 RPP 4.14(e).

8. The Office of Arkansas Attorney General Leslie Rutledge, Hospitals and Higher Education Group, and the FEA have authorized Joint Movants to represent that they do not oppose this Joint Motion. The General Staff has authorized Joint Movants to represent that it will not be filing a response to the Joint Motion.

WHEREFORE, the Joint Movants ask the Commission to grant the relief described herein and grant all other relief to which they may be entitled.

Respectfully submitted,

**ENTERGY ARKANSAS, LLC**

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CERTIFICATE OF SERVICE

I, Kimberly K. Bennett, do hereby certify that a copy of the foregoing has been served upon all parties of record by forwarding the same by electronic mail and/or first-class mail, postage prepaid, this 12<sup>th</sup> day of March 2021.

/s/ Kimberly K. Bennett  
Kimberly K. Bennett