

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 718

5 By: Senator B. Ballinger  
6

## For An Act To Be Entitled

8 AN ACT TO ALLOW CERTAIN UTILITY CONSUMERS TO TRANSFER  
9 ELECTRIC UTILITY SERVICES TO ANOTHER UTILITY PROVIDER  
10 IN CERTAIN CIRCUMSTANCES; TO ESTABLISH THE TRANSFER  
11 OF ELECTRIC UTILITY SERVICES BY A LANDOWNER ACT; AND  
12 FOR OTHER PURPOSES.  
13

## Subtitle

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15 TO ALLOW CERTAIN ELECTRIC UTILITY  
16 CONSUMERS TO TRANSFER SERVICES TO ANOTHER  
17 UTILITY PROVIDER IN CERTAIN  
18 CIRCUMSTANCES; AND TO ESTABLISH THE  
19 TRANSFER OF ELECTRIC UTILITY SERVICES BY  
20 A LANDOWNER ACT.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an  
27 additional subchapter to read as follows:  
28

29 Subchapter 11 – Transfer of Electric Utility Services By a Landowner Act  
30

31 23-18-1101. Title.

32 This subchapter shall be known and may be cited as the "Transfer of  
33 Electric Utility Services by a Consumer Act".  
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35 23-18-1102. Purpose.

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



1 obtain utility services by making utility services reasonably available.

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

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6 23-18-1103. Definitions.

7 As used in this subchapter:

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

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

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

13 (i) To or for the public;

14 (ii) For compensation; and

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

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

18 (A) Purchases an electric utility service; and

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

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

23 (4) "Utility services" means:

24 (A) The transmission of communications;

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

27 (C) Sewer service;

28 (D) Fire protection;

29 (E) Police protection;

30 (F) Drainage and storm water management; or

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

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35 23-18-1104. Transfer to adjoining utility provider.

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

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

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

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

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

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

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

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

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

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

1 and transferred to the service area of other utility provider.

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

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

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

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

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

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

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

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

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

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33 23-18-1105. No split or island.

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

1 another utility provider.

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

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6 23-18-1106. Hearing.

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

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

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

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

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18 23-18-1107. Filing.

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

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

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26 23-18-1108. Provision of electric utility services.

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

1           23-18-1109. Rules.

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

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