



Electric Cooperatives
of Arkansas



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NEWS RELEASE

LITTLE ROCK, Ark., March 7, 2011 — Arkansas Electric Cooperative Corp. (AECC) and Southwestern Electric Power Co. (SWEPCO) today applauded legislation filed by state Rep. Bubba Powers and state Sen. Steve Harrelson to clarify state law for approving major utility facilities such as new power plants and transmission lines.

The bill was filed to address questions about what is required to secure a certificate of environmental compatibility and public need (CECPN) from the Arkansas Public Service Commission (APSC). Such certificates are needed if a utility wants to include the cost of a power plant or other major electric facilities in its rates, which are regulated by the APSC. The actual cost that can be recovered is not determined in the CECPN proceeding, but in a separate rate review conducted by the APSC at a later date.

“This will provide the regulatory and legal certainty that utilities and others need in order to make the investments to build these new generation resources,” said Gary Voigt, president and chief executive officer of AECC. “And these investments are vital for the continued reliability of the state’s power grid and the growth of the state’s economy. “

“The bill keeps the same high standards a company already must meet to receive a state certificate in order to serve our customers and recover costs in rates,” said Venita McCellon-Allen, president and chief operating officer of SWEPCO. “With this bill, the legislature has the opportunity to reinforce the process so that we know the rules before we start a project – and not have them changed after we get a certificate and start construction.”

Questions about the certificate process arose because of a June 2010 ruling by the Arkansas Supreme Court. It upheld a lower court decision that said the APSC had not followed state law correctly when it approved a CECPN to build the John W. Turk Jr. Power Plant in southwest Arkansas. The court ruling did not challenge the Turk Plant itself, which was already under construction, but only the process for granting its certificate. The court said the APSC erred in determining the need for additional power in a separate proceeding, but reiterated that the Turk Plant transmission lines are major utility facilities that may be considered in a separate proceeding.

SWEPCO is building the \$1.7 billion plant. AECC is part owner of the plant, which is scheduled to open in 2012.

“This bill will preserve the public’s right to speak up about proposed power plants before the APSC votes on a certificate application,” Powers said. “But would-be investors should have confidence that once a certificate is granted, they can start building without looking over their shoulders, wondering if a court somewhere is going to second-guess the commission over some procedural detail. This bill enjoys the bipartisan support of co-sponsors from across the state, including all House and Senate members from southwest Arkansas.”

Harrelson said, “This bill is not about changing the law but restoring what we thought was the law before the Supreme Court ruling. We’re not trying to change the procedure; we’re trying to keep it, but make it clearer.” Harrelson also noted that separate from the CECPN statute, new facilities still must satisfy all other applicable regulatory requirements such as air, water and solid waste permits from state and federal regulatory agencies.

The new legislation would not affect the Turk Plant’s current status. After the Supreme Court’s ruling, SWEPCO elected to proceed with the Turk project under an exemption available to the company under the state’s CECPN statute. SWEPCO

informed the APSC that the company would not seek to recover Turk Plant costs from Arkansas retail customers. The plant will still serve SWEPCO's wholesale customers, which include the cities of Hope, Bentonville and Prescott. The plant will also serve AECC's 490,000 customers. Simply put, the Turk plant is similar to five other power plants built in Arkansas, which were not required to obtain a CECPN from the APSC.

Highlights of the bill (HB 1895) include:

- The APSC can continue to determine the need for a major utility facility in a CECPN proceeding, or if the APSC has officially determined through comprehensive resource planning the need for more power, it need not decide the issue again for each application for a CECPN.
- The APSC can rely upon state or federal environmental permitting in determining whether a proposed plant will have an acceptable environmental impact.
- A power plant is exempt from CECPN requirements if it is majority-owned by an exempt wholesale generator or a public utility that will not seek to pass on its cost through rates subject to state regulation.
- Filing an application for a CECPN does not waive the rights to any exemptions under state utility law.
- The APSC has primary and exclusive jurisdiction over all matters related to major utility facilities, including determining whether a proposed facility is exempt under the law.

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