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FILED

Jan Sanders
Secretary of the Commission

3/31/00

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF A RULEMAKING)
PROCEEDING TO ESTABLISH LICENSING) DOCKET NO. 99-290-R
REQUIREMENTS FOR ENERGY SERVICE) ORDER NO. 6
PROVIDERS AND AGGREGATORS)

ORDER

Order No. 1 entered on October 10, 1999, directed the Staff of the Arkansas Public Service Commission (Staff) to file proposed rules for standards and procedures for licensing Energy Service Providers (ESPs) on November 1, 1999. In the Order, all jurisdictional electric utilities, Staff, Arkansas Electric Energy Consumers (AEEC) and the Attorney General (AG) were made parties to the Docket. Order No. 2 entered on October 28, 1999, granted the petition to intervene filed by Nucor-Yamato Steel Company and Nucor Steel-Arkansas (Nucor). Order No. 3 entered on November 15, 1999, granted Reliant Energy Arkla's (Arkla) petition to intervene. The petitions to intervene filed by Arkansas Western Gas Company (AWG) and the Arkansas Municipals (Municipals) were granted by Order No. 4 entered on December 6, 1999.

On November 1, 1999, Staff filed Initial Comments and proposed amendments to the Commission's *Rules of Practice and Procedure* for Licensing Requirements for Energy Service Providers. On January 10, 2000, Initial Comments on the proposed licensing requirements for ESPs were filed by Southwestern Electric Power Company and Central and Southwest Corporation

(SWEPCO), Nucor, Arkla, Entergy Arkansas, Inc. (EAI), Arkansas Electric Cooperative Corporation (AECC), Oklahoma Gas and Electric Company (OG&E), the Electric Distribution Cooperatives (Distribution Coops), and the AG. Reply Comments were filed on February 4, 2000 by Staff, SWEPCO, AECC, EAI, Nucor, OG&E, AG, AECC, and the Distribution Coops. A public hearing was held on the proposed amendment to the Commission's *Rules of Practice and Procedure* for Licensing Requirements for ESPs on February 15, 2000.

An ESP is:

a qualifying facility, a power broker, a power marketer, any entity, other than an electric utility or a municipal electric utility, or an aggregator other than a municipality or group of municipalities or counties, that sell or otherwise provides electricity to or for itself or a retail electric customer, regardless of whether such entity takes title to the electricity. Ark. Code Ann § 23-19-102(10).

The Commission is given jurisdiction over ESPs "who sell, broker, market, or aggregate electricity to or for the public for consumption in Arkansas." Ark. Code Ann. §23-19-201(a). The Commission has jurisdiction to require that the ESP obtain a license pursuant to Ark. Code Ann. § 23-19-202 as a condition of doing business in this state, to enforce Ark. Code Ann. §23-19-401 and to require the filing of any reports the Commission may require by rule. Ark. Code Ann §23-19-201(a)(1), (2) and (3). The Commission does not have jurisdiction over the rates and charges of ESPs. The Commission shall license an ESP " only upon a finding that the public interest will be served thereby, including, but not limited to, findings of the reliability, financial ability, and the technical competence of the license applicant to provide the service for which it is seeking the license." Ark. Code Ann. §23-19-202(a). Pursuant to Ark. Code Ann. §23-19-202(b), the Commission is required to adopt rules for licensing ESPs establishing appropriate standards and

procedures and including procedures for enforcing the standards.

In its Initial Comments, Staff states that beginning on September 16, 1999, it held a series of meetings with the electric utilities, AEEC, the AG and other interested parties to develop the proposed ESP licensing requirements. The Staff states that it attempted to reflect the consensus of the participants in the meetings to the greatest extent possible in the proposed guidelines. The Reply Comments of Staff reflect additional revisions to the proposed rules which Staff made to address the Initial Comments of the other parties. Based upon these Comments, Staff made deletions, revisions and additions to the proposed rules to address the comments. In the hearing, Staff made an additional modification to the proposed rules to delete proposed Rules 7.09.D. and E. T. 11, 60. According to Staff, its proposed ESP rules meet the requirement of establishing standards for ESP licensing as directed in Ark. Code Ann. § 23-19-202(b). The standard which the ESP license applicant must meet is to demonstrate to the Commission's satisfaction that the applicant possesses the reliability, financial ability, and technical competence to provide the service for which it is requesting a license. The Staff states that the licensing requirements for ESPs should not pose a barrier to entry and entry should be made as easy as possible while ensuring that the ESP has the reliability, financial ability, and technical competence to provide the service for which it seeks a license. Staff contends that the focus of the examination of an ESP application should be on whether the new licensee will have an adverse affect upon the reliability of the electric network and other electric providers.

Generally, Staff proposes amending the *Rules of Practice and Procedure* including the definition of ESP in Rule 1.01 and adding the licensing requirements for ESPs to Section 7 of the Rules which is the section on certification of public utilities. Staff proposed Rule 7.09.B. lists

information which should be included in the ESP license application and from that information, the Commission would determine the fitness of the applicant to provide the type of service for which it requests a license. In its Comments and Reply Comments, Staff asserts that the Commission's Rules and existing enforcement authority, including civil sanction pursuant to Ark. Code Ann. § 23-1-103 and potential revocation of an ESP's license are adequate to enforce the licensing requirements. The Staff also states that Ark. Code Ann. § 23-2-316 coupled with Rules 13.05 and 3.07.(a) are sufficient to provide protection for any competitively sensitive information which an ESP may be required to file in the application process.

The AG and EAI recommended the greatest number and the most significant modifications to the rules proposed by Staff. Both EAI and the AG contend that the Staff proposed rules fall short of the statutory directive to establish standards for licensing ESPs. The AG states that the proposed rules "create only a screening process requiring the Commission to subjectively disqualify applicants based on a list of information furnished by the applicant." T. 331. In its Reply Comments, the AG stresses requiring applicants to provide some form of financial assurance sufficient to compensate defaulting consumers and a method of administering claims is more important than setting standards. T. 348. EAI supports the AG's suggestion that the applicant provide some form of financial assurance. EAI, in its Reply Comments, agrees with the AG's suggestion that the rules should require that the applicant provide the name and address of the person responsible for consumer complaints. The AG also recommends that the license be granted for a specific term and that the rules contain a renewal process.

The Reply Comments of EAI have a recommended addition to Staff's proposed Rule 7.09.A.

which would require the applicant for a license to provide proof that the potential ESP could meet its peak demand and that it would not have an adverse impact on the electric system including peak demand. T. 184. EAI also recommends placing limits on the scope of an ESP license and requiring the ESP to apply for modification of the license should it experience certain changes or want to change the service provided. EAI is in agreement with the AG on limiting the scope of the license but recommends using the process of requesting a modification of the license instead of an annual renewal as advocated by the AG. T. 186-8.

The other parties made more modest recommendations for additions or deletions to the initial proposed rules many of which Staff incorporated into the revised rules filed as Attachment A to Staff's Reply Comments. OG&E and SWEPCO agreed with Nucor's Comments regarding the need for specific waiver provisions within the rules on ESP licensing and SWEPCO agreed with Nucor's recommendation that the ESP licensing rules be made a separate section of the *Rules of Practice and Procedure*. The Distribution Coops agreed with the AG that the proposed Rules did not have adequate standards and suggested that Commission order a new collaborative process to make comprehensive revisions to the proposed rules.

The Commission agrees with the purpose stated in Staff's Comments underlying the ESP licensing requirements. The requirements should not be so stringent that they create a barrier to entry for potential ESPs. However, the Commission needs to have enough information to "determine whether a potential ESP has the reliability, financial ability, and technical competence to provide the services for which it seeks a license." T 17.

The approach which Staff has taken in its proposed ESP Licensing Requirements Rules

allows the Commission the flexibility to obtain the information needed to conduct a meaningful review of the licensing applications and evaluate the qualifications of the applicants. Flexibility is especially important for the ESP licensing process since an ESP can take many forms. The rules which Staff has proposed allow each type of ESP to provide the Commission the information relevant to its operation and the Commission can determine that applicant's ability to provide the service for which it seeks a license. Since ESPs can be brokers, marketers, aggregators or generators, "[I]icensing should be accomplished on a case-by-case basis without a rigid framework set forth in the rules." T. 277.

The Commission also agrees with Staff that Rule 13.05 and Rule 3.07 of the *Rules of Practice and Procedure* and Ark. Code Ann. §23-2-316 adequately address the protection of competitively sensitive material. Nucor's suggestion of additional rules on protecting competitively sensitive material are unnecessary. The Commission regularly deals with material which is competitively sensitive or contains trade secrets. Creating more rules for protected information would serve only to burden the rules with extraneous material. The same rationale applies to the AG's suggestion of rules on complaint procedures. The complaint process is adequately addressed in Section 10 of the *Rules of Practice and Procedure* and Section 10 applies to all complaints including complaints about, by, or involving an ESP.

The Commission also finds that the AG's and EAI's recommended mandatory bonding requirements for ESP licensees would create a barrier to entry. The Staff observed that the proposed ESP rules allow the Commission to review the application and determine whether financial security is necessary. If there are questions of financial fitness, the Commission can conduct a proceeding to

establish the appropriate security. The Staff also correctly questions "whether the Commission can administer the dispersal of proceeds, since the Commission cannot award damages for contractual disputes." T. 39.

In the hearing, Staff recommended deleting proposed Rule 7.09.D. and E. regarding license modification for a material change in circumstances and an annual reporting requirement. Staff witness John Bethel explained that the Staff did not believe that the information would be valuable in assessing an ESP's continuing ability to provide the service for which it is licensed. Mr. Bethel also stated that the Commission has the authority under existing statutes to request information periodically if needed. T. 66-7. The Staff also expressed concern that an annual report requirement was misplaced in the licensing requirements. T. 368.

The Commission appreciates the Staff's efforts to ensure that the ESP licensing requirements are not onerous or burdensome. However, the Commission agrees with the suggestion of OG&E, EAI and the AG on the need for an annual report requirement for ESPs. OG&E states that an annual report would enable the Commission "to better provide an accurate list of ESPs to consumers." T. 271-2. Annual reports from the ESPs will assist the Commission in gathering the information for reports to the General Assembly on the development of competition in compliance with Ark. Code Ann. §23-19-107.

An annual reporting requirement should not be onerous and burdensome but it should be sufficient to apprise the Commission and the public of any material changes in the operation of the licensed ESPs and to inform the Commission of which ESPs are actually in operation in the state. The Commission has combined Staff's proposed Rules 7.09.D. and E. to create an annual reporting requirement which will require only notification of material changes. This should not be burdensome

for the ESPs but it will give the Commission sufficient information to determine if there is reason for further inquiry.

EAI and Arkla questioned the proposed requirement to provide information on pending civil or criminal proceedings in Rule 7.09.B.(8). In its Reply Comments, Staff explained that "[p]ending legal and regulatory matters may provide information relevant to the grant of a license, especially for an applicant that has only recently begun operations." T. 35. The Staff is correct that this information is useful in evaluating an application. Pending matters are not conclusive as to the applicant's qualifications but the information may provide some insight into the applicant's business conduct.

Arkla requested that Rule 7.09.B.(8) be revised to limit the scope of the request for information on civil and criminal proceedings related to an ESP's business activities. Arkla witness Charles Harder stated that the rule had been "expanded to include not only the applicant, but its parent and affiliated electric utilities or energy service providers." T. 360. Mr. Harder explained that this requirement for providing information would be burdensome for a large, multinational corporation.

The Staff offered a solution in the form of amending Rule 7.09.B.(7) to include 7.09.B.(8) as subsection (e) of Rule 7.09.B.(7). T. 363-4 and 366. This modification would limit the scope of the rule consistent with the scope of 7.09.B.(7) as suggested by Arkla. The resolution proposed by Staff is reasonable and the rules attached hereto as Appendix A have been modified consistent with Staff's proposal.

The AG recommended the addition of a provision requiring the applicant to identify a customer complaint contact in the application for an ESP license. According to the AG, this would

"assure that applicants are aware of and have planned a means to take customer complaints." T. 342. Both EAI and SWEPCO expressed support for this addition to the ESP Licensing Requirements in their Reply Comments. T. 191, 258.

The AG's recommendation is reasonable and the Commission finds that the Rules should include a requirement that the applicant provide a customer complaint contact. The applicant should be prepared to address customer complaints from the date it receives a license and as the AG suggested, requiring this information on the application provides assurance that the applicant is aware of its responsibility. The AG's suggested subsection has been added to the Rules as Rule 7.09.B.(15).

During the hearing, a question was raised about what entities would require an ESP license. The question involved whether an out-of-state power supplier would require an ESP license to sell power in Arkansas through a broker. The indication was that the out-of-state power supplier would require a license because the broker never takes title to the power. The Commission disagrees. A broker that is licensed as an ESP in this state should be free to arrange for power from power suppliers anywhere without questioning whether the supplier is licensed in this state. As the licensee, the broker is responsible for delivering the power to its customer in Arkansas in compliance with all applicable statutes, rules and regulations and pursuant to the terms of the broker's ESP license.

IT IS, THEREFORE ORDERED:

1. That the ESP Licensing Requirements Rules proposed by Staff, as modified herein, are hereby adopted as an amendment to the Commission's *Rules of Practice and Procedure*. The ESP Licensing Requirement Rules adopted by the Commission are attached hereto as Appendix A.
2. That on or before June 30, 2000, the Staff shall develop an application form with

appropriate instructions for ESP applicants to use in applying for a license.

3. That on or before June 30, 2000, the Staff shall develop a form for annual reporting consistent with the Rule 7.09.D.

BY ORDER OF THE COMMISSION.

This __31st__ day of March, 2000.

Jim von Grep, Chairman

Sam I. Bratton, Jr., Commissioner

Betty C. Dickey, Commissioner

Jan Sanders
Secretary of the Commission

APPENDIX A

LICENSING REQUIREMENTS FOR ENERGY SERVICE PROVIDERS

Amend Rules of Practice and Procedure:

SECTION 7. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND LICENSE

Rule 7.01. Subject Matter

(a) Where a Certificate of Public Convenience and Necessity is required by Ark. Code Ann. § 23-3-201 *et. seq.* for the construction or operation of any new equipment or facilities for supplying a public service, or a license is required by Ark. Code Ann. § 23-19-202, such certificate or license shall be obtained from this Commission by formal application except as provided below.

(b) no change

(c) no change

The requirements stated in (a), and (b) above do not apply to a tariff filed in accordance with Rule 7.05.(d). The requirements stated in (b) and (c) above do not apply to an application filed pursuant to Rule 7.09.

Add to Rules of Practice and Procedure:

Rule 1.01. Definitions

"Energy Service Provider". As defined in Ark. Code Ann. § 23-19-102 (10).

Add to Rules of Practice and Procedure:

Rule 7.09. License - Energy Service Providers

A. Pursuant to Ark. Code Ann. §§ 23-19-201 and 23-19-202 (a), all energy service providers who sell, broker, market, or aggregate electricity to or for the public for consumption in Arkansas shall obtain a license to operate.

B. Applications for a license to operate as an energy service provider shall include the following information:

(1) The name, address, telephone and fax numbers, web site address (if any), and identification of the agent for service of process of the applicant.

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- 1 (2) Evidence of authority to do business in Arkansas (i.e., copies of the articles of a
2 partnership or a certified copy of the Articles of Incorporation; the Certificate of
3 Authority to Foreign Corporation, unless incorporated under Arkansas law; the
4 Registration of Fictitious Name, if applicable; or other organizational documents).
- 5 (3) A description of the applicant, including a corporate history, the services it intends to
6 provide, the classes of customers to which service will be provided, and the
7 geographic areas in which it intends to operate.
- 8 (4) A description, or documentation, of any license, operating authority, or acceptance
9 of market-based sales tariffs from the Federal Energy Regulatory Commission .
- 10 (5) A listing of all states where the applicant is authorized to operate as an energy service
11 provider or equivalent.
- 12 (6) For the applicant, its parent, its affiliated electric utilities, or its affiliated energy
13 service providers, or their predecessors, using their present names or other names, a
14 list by state or federal jurisdiction of all regulatory proceedings where:
- 15 (a) authorization as an energy service provider or equivalent was sought and was
16 denied. For each such instance, explain the reasons for the request's denial;
- 17 (b) authority to operate as an energy service provider or equivalent was revoked
18 or suspended. For each such instance, explain the reasons for the revocation
19 or suspension;
- 20 (c) authority to operate as an energy service provider or equivalent was granted,
21 the energy service provider commenced providing service, and subsequently
22 discontinued or abandoned providing service. For each such instance, explain
23 the reasons for the discontinuance or abandonment of service.
- 24 (7) For each applicant, its affiliated energy service provider, or their predecessors, using
25 their present names or other names, a list of:
- 26 (a) all formal regulatory proceedings, by state or federal jurisdiction where fines
27 were imposed for violating any state or federal consumer protection law or
28 regulatory directive related to consumer protection in the three years
29 preceding the application. For each such instance, describe the proceeding by
30 reference to the applicable state or federal regulatory authority, the docket or
31 case number, the date filed, a brief summary of the nature of the proceeding,
32 and its resolution. Provide the same information and current status for any
33 pending formal regulatory agency proceeding alleging such activities;

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- 1 (b) all formal regulatory agency proceedings whereby the applicant, its affiliated
2 ESPs, or their predecessors, was found to have violated a state or federal
3 statute or regulatory directive in the three years preceding its application. For
4 each such instance, describe the proceeding by reference to the applicable
5 state or federal regulatory authority, the docket or case number, the date filed,
6 a brief summary of the nature of the proceeding, and its resolution. Provide
7 the same information and current status for any pending formal regulatory
8 agency proceeding alleging such activities;
- 9 (c) all filings for protection under bankruptcy, receivership, or similar laws, or
10 involuntary petitions under bankruptcy, receivership, or similar laws whereby
11 such petition was not dismissed within sixty days. Describe the effect on the
12 relevant party of each such proceeding;
- 13 (d) any dissolution of entities, mergers with any other entity, or acquisitions by
14 another entity within the three years preceding the application. Describe the
15 effect on the relevant party of each such restructuring;
- 16 (e) any civil or criminal proceeding related to the applicant's business activities in
17 which the applicant was named as a defendant and found guilty of or liable for
18 fraud, any felony, breach of contract, failure to pay a debt when due, or
19 violation of a consumer protection law or regulation within the three years
20 preceding the application. Describe the proceeding by reference to the
21 applicable state or federal jurisdiction, the docket or case number, date
22 commenced, a brief summary of the nature of the complaint or charge.
23 Provide the same information and current status for any pending civil or
24 criminal proceeding alleging such activities.
25
- 26 (8) Information demonstrating the applicant's financial ability to provide the services
27 proposed including, but not limited to, the following:
- 28 (a) if available, the most recent two fiscal years' financial statements or Securities
29 and Exchange Commission Forms 10-K and 10-Q;
- 30 (b) if available, copies of the applicant's credit rating according to Moody's or
31 Standard & Poors debt ratings or Dun and Bradstreet Credit Reports, Robert
32 Morris and Associates Credit Reports, or other independent financial service
33 reports;
- 34 (c) the information in Rules 7.09.B.(8) (a) and (b) for the applicant's parent
35 company (if applicable); and

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- 1 (d) a description of the types and amounts of insurance, if any, which are
2 specifically intended to provide for or support the applicant’s financial fitness
3 to perform its obligations as an energy service provider.
- 4 (9) Information demonstrating the applicant's managerial capacity to provide the services
5 proposed including, but not limited to, the following:
- 6 (a) the full name of its owner if a sole proprietorship, of each partner if a
7 partnership, or a full list of the officers, and directors if a corporation;
- 8 (b) a description of the education and work experience of key senior management
9 personnel directly responsible for operations; and
- 10 (c) a description of the applicant's and / or the applicant's affiliates' experience in
11 the electric industry.
- 12 (10) Information demonstrating the applicant's reliability and technical competence to
13 provide the services proposed including where applicable, but not limited to, the
14 following:
- 15 (a) a detailed description of any generation facilities, be they owned or leased,
16 that will be used directly in the provision of the services proposed, including,
17 but not limited to, the following information:
- 18 (i) the name and location of each facility;
19 (ii) the owner and operator of each facility;
20 (iii) the maximum rated output of each facility;
21 (iv) the rated dependable capacity of the facility;
22 (v) the annual forced outage rate of the facility for the most recent five
23 years; and
24 (vi) the fuel source and alternative fuel source for each facility;
- 25 (b) summaries of any agreements for purchased power, transmission, distribution,
26 and/or customer services, as applicable to the scope and nature of the
27 applicant’s proposed services. The summaries should, at a minimum, address
28 the contracting parties, firmness, term, and quantity;
- 29 (c) a statement that the applicant has made adequate arrangements for
30 generation, purchased power, transmission, distribution, and / or customer
31 services to provide the ability to meet its anticipated load, or if the applicant
32 has not made adequate arrangements for generation, purchased power,
33 transmission, distribution, and / or customer services to provide the ability to

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- 1 meet its anticipated load, a statement that the applicant will not provide
2 service pursuant to its license before providing evidence of such arrangements
3 to the Commission;
- 4 (d) a statement that the applicant will comply with the Commission's guidelines
5 for the exchange of information with electric utilities and other energy service
6 providers;
- 7 (e) documentation of membership in reliability councils or compliance with
8 reliability requirements of the applicable reliability councils or independent
9 system operator, if applicable to the scope and nature of the applicant's
10 proposed services; and
- 11 (f) a statement that the applicant will adhere to the reliability protocols of the
12 North American Electric Reliability Council (NERC), the appropriate regional
13 reliability councils and that the applicant agrees to comply with the
14 operational requirements of the independent system operator or control areas
15 within which it provides service, if applicable to the scope and nature of the
16 applicant's proposed services.
- 17 (11) Identification of all affiliates of the applicant providing energy-related products and
18 services within Arkansas.
- 19 (12) A statement that the applicant has obtained, reviewed, and will comply with the
20 applicable statutes and Commission rules. Such statement will acknowledge that the
21 applicant understands the potential penalties associated with the violations of the
22 applicable statutes and Commission rules, including the possibility of license
23 suspension or revocation pursuant to Ark. Code Ann. § 23-19-401 (c).
- 24 (13) A statement that the applicant has registered with the Arkansas Department of
25 Finance and Administration to collect and remit applicable state and local sales and
26 use taxes on sales of electricity within Arkansas.
- 27 (14) Any additional data, information, or calculations not herein specified which the
28 applicant wishes to submit for consideration.
- 29 (15) The name, address and telephone number of the applicant's customer complaint
30 contact.
- 31 (16) Such other information as the Commission may require subsequent to the filing of the
32 application.

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1 C. If necessary to protect the public interest:

2 (1) The Commission may, upon notice and hearing, impose a level of bonding or
3 equivalent financial instrument commensurate with the nature and scope of the
4 applicant's operations or other relevant circumstances.

5 (2) The Commission may, upon notice and hearing, modify or rescind the requirement
6 imposed on an applicant for such bonding or equivalent financial instrument or may
7 impose such requirement upon an existing licensee.

8 D. On or before March 31 of each year, each licensed ESP shall submit a report, in electronic and
9 paper format, to the Commission which updates the information in the ESP's application or its
10 previous report and reporting any material change in circumstance which has occurred during the
11 year. Where the application or previous report contained estimated information, the report shall
12 include actual information as applicable. A material change in circumstances includes but is not
13 limited to the following:

14 (1) There is a significant change in corporate structure such that the name of the
15 corporation has changed, the corporation has merged with another corporation, or at
16 least fifty percent of the ownership of the licensee has changed from that described
17 in the response to Rules 7.09.B.(2) and (9);

18 (2) The licensee has a material change in financial ability from that described in Rule
19 7.09.B.(8). For the purpose of this rule, a material change shall mean any change in
20 the licensee's financial status that would reasonably affect its ability to provide the
21 services for which it is licensed;

22 (3) The licensee has a material change in the managerial capacity from that described in
23 Rule 7.09.B.(9). For the purposes of this rule, a material change shall mean any
24 change in the key senior management personnel directly responsible for operations
25 that would reasonably affect the licensee's ability to provide the services for which it
26 is licensed;

27 (4) Any of the generation facilities identified in Rule 7.09.B.(10)(a) become unavailable
28 for direct use in the provision of service in Arkansas: or

29 (5) There is a material change in the agreements identified in Rules 7.09.B.(10)(b) and
30 (c).

31 (6) The licensee shall include in the annual report any change in the name, address or
32 telephone number of the licensee's customer complaint contact.

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- 1 (7) The licensee shall include in its annual report proof that it has contracted for or
2 otherwise arranged for an adequate supply of back-up power to meet the load served
3 by the licensee or which the licensee projects it will serve during the year.
- 4 E. The Commission may, upon its own motion or in response to a motion from another party,
5 initiate a proceeding to modify, suspend, or revoke an ESP's license. Such proceedings shall
6 be conducted pursuant to Section 10 of these Rules.