

ARKANSAS COURT OF APPEALS

DIVISIONS II & III

No. CV-13-803

DUSTIN MCDANIEL, ARKANSAS
ATTORNEY GENERAL, CONSUMER
UTILITIES RATE ADVOCACY
DIVISION

APPELLANT

V.

ARKANSAS PUBLIC SERVICE
COMMISSION and ENTERGY
ARKANSAS, INC.

APPELLEES

Opinion Delivered October 8, 2014

APPEAL FROM THE ARKANSAS
PUBLIC SERVICE COMMISSION
[DOCKET NO. 12-056-U]

REVERSED AND REMANDED

KENNETH S. HIXSON, Judge

This is the companion case to a separate appeal handed down by this court today in *McDaniel v. Arkansas Public Service Commission*, 2014 Ark. App. 529. That appeal arises from Order No. 7 of the Arkansas Public Service Commission in Docket No. 12-056-U, in which the Commission found that an interim surcharge imposed by Entergy Arkansas, Inc., complied with Act 310 of 1981, and from Order No. 8 approving Entergy's rate schedule for the surcharge. This court reversed and remanded Orders 7 and 8 for additional findings by the Commission.

The present appeal is from Order No. 9 in Docket No. 12-056-U. That Order altered the rate schedule approved by the Commission in Order No. 8. The Consumer Utilities Rate Advocacy Division of the Arkansas Attorney General's Office ("the AG") has appealed from

Order No. 9 and asserts the same grounds for reversal as in the companion appeal.

In light of the identical nature of the issues in both appeals, we adopt the reasoning employed in *McDaniel v. Arkansas Public Service Commission*, 2014 Ark. App. 529, and reverse and remand the Commission's Order No. 9.

GLADWIN, C.J., and PITTMAN, WALMSLEY, and WOOD, JJ., agree.

BROWN, J., dissents.

Dustin McDaniel, Att'y Gen., by: *Emon O. Mahony*, Ass't Att'y Gen., for appellant.

Tucker Raney, Assistant General Counsel of Entergy Services, Inc.; *N. Wesley Hunt*, Counsel of Entergy Services, Inc.; *Perkins & Trotter, PLLC*, by: *Scott C. Trotter*; and *Wright, Lindsey & Jennings*, by: *N. M. Norton*, for appellees.