

**Act 253 Notice and Affidavit**  
**Pursuant to Ark. Code Ann. § 23-3-405**  
**for the purpose of Opting-Out of Public Utility-Sponsored**  
**Energy Efficiency and Conservation Programs and Measures**

I, [authorized employee], am authorized to submit on behalf of [legal name of company or institution] (the “Nonresidential Business Consumer”) this Notice and Affidavit pursuant to Act 253 of 2013, as amended, codified within Ark. Code Ann.§ 23-3-405, on the date of my signature below.

I understand, agree, and certify as follows:

- 1.** [legal name of company or institution] is a nonresidential business consumer that is either classified within sectors 31 through 33 of the North American Industry Classification System, as it existed on January 1, 2013, or is a state-supported institution of higher education, and that chooses to opt out of utility-sponsored energy conservation programs and measures and direct its own nonresidential energy conservation programs.
  
- 2.** The Nonresidential Business Consumer has (check all that apply):
  - (a)** a peak electrical demand of at least one megawatt (1 MW) at a single facility;
  - (b)** multiple facilities with identical ownership in a single public utility's service territory with a peak electrical demand that exceeds two hundred kilowatts (200 kW) at each location and an aggregated peak electrical demand of at least one megawatt (1 MW) for all of the locations;
  - (c)** an annual natural gas usage of seventy thousand million British Thermal Units (70,000 MMBtu) at a single facility; and/or
  - (d)** multiple facilities with identical ownership in a single public utility's service territory with an annual natural gas usage that exceeds fourteen thousand million British Thermal Units (14,000 MMBtu) at each location and an aggregated annual natural gas usage of seventy thousand million British Thermal Units (70,000 MMBtu) for all of the locations.
  
- 3.** The Nonresidential Business Consumer has within the five (5) years preceding this Notice and Affidavit (must check one):
  - (a)** not accepted the installation of any energy conservation programs and measures by the applicable public utility, or financing or direct monetary compensation in the form of a rebate or incentive to enable the installation of any energy conservation programs and measures by the applicable public utility; or

**(b)** accepted but returned under Ark. Code Ann. § 23-3-405(c)(1)(A)(ii)(b) to an applicable public utility through a separate payment to the public utility or through payment of rates approved by the Arkansas Public Service Commission under Ark. Code Ann. § 23-3-405(a)(3) any amount received from an applicable public utility calculated from the date of the installation of the last energy conservation program or measure, including any interest and directly attributable rate effects for:

(1) the installation of any energy conservation programs and measures by the applicable public utility; or

(2) financing or direct monetary compensation in the form of a rebate or incentive to enable the installation of any energy conservation programs and measures by the applicable public utility.

**4.** The Nonresidential Business Consumer has (must check one):

**(a)** implemented or will implement energy conservation programs and measures or has made or will make an investment designated to provide energy savings for the Nonresidential Business Consumer. The energy conservation programs and measures implemented or to be implemented or the investment made or to be made has provided or is expected to provide energy savings for the Nonresidential Business Consumer in an amount that is at least equal to the energy efficiency goals or standards established by the commission as of the date of this affidavit; or

**(b)** exhausted its opportunity to economically conduct further meaningful and cost-effective energy conservation programs and measures; and is unable to realize adequate benefits by participating in the utility-sponsored energy conservation programs and measures for the reasons stated in the written explanation I have attached to this affidavit.

**5.** Exhibit A attached hereto accurately identifies each public utility to whom this Notice and Affidavit is directed and each utility account/meter number through which Affiant is served by the public utility.

Accordingly, the Nonresidential Business Consumer requests that the Commission issue an Order of Compliance pursuant to Ark. Code Ann. § 23-3-405(d) stating that the Nonresidential Business Consumer has met the requirements of Ark. Code Ann. § 23-3-405(c) and that the rights and limitations of Ark. Code Ann. § 23-3-405(d) apply.



**Exhibit A – Public Utility Account(s)/Meter Number(s)**

[Insert Company or Institution Name]

**1. A.** [Insert first Public Utility Name]

**B.** [Insert each Account/Meter Number served by first Public Utility]

**2. A.** [Insert Second Public Utility Name]

**B.** [Insert each Account/Meter Number served by first Public Utility]

(Continue listing for each additional public utility serving Affiant Company or Institution.)