

Opinion No. 2010-065

August 16, 2010

The Honorable Randy Laverty
State Senator
Post Office Box 303
Jasper, Arkansas 72641-0303

Dear Senator Laverty:

This is my response to your questions about state regulation of electric cooperatives, as follows:

1. Does the Arkansas Public Service Commission and/or Attorney General's office have jurisdiction and/or oversight on matters relating to Arkansas electric cooperatives democratic governance issues, specifically board accountability to its members/owners?
2. If so, which statute and/or regulation allows for jurisdiction and oversight, and what process within the appropriate agency is in place to ensure compliance?

RESPONSE

Although your questions are general and do not refer to any particular facts or parties, they appear to relate directly to a case now before the Arkansas Court of Appeals. *See Capps v. Carroll Electric Coop. Corp.*, Case No. CA 10-667. I have a statutory duty to render my opinion to legislators and other state officials on certain matters of state law (*see* A.C.A. § 25-16-706 (Repl. 2002)), but my office follows a long-standing policy against issuing opinions on matters that are in litigation. *See, e.g.*, Op. Att'y Gen. 2009-089 and 2007-039 (and opinions cited therein). I must therefore respectfully decline to issue an opinion on these

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questions. Any opinion from my office would be executive comment on questions properly before a court.

Assistant Attorney General J. M. Barker prepared this opinion, which I approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:JMB/cyh