

UTILITIES

What happens to our utility deposits that go unclaimed by customers who move away?

They need to be turned over to the state under the Unclaimed Property Act, Ark. Code Ann. §§ 18-28-201– 230. Utility deposits are presumed abandoned if unclaimed within year after the deposit becomes payable. Ark. Code Ann. § 18-28-202(12). The city must make a report of and deliver any unclaimed property to the Auditor of State before November 1 of each year for the 12 months preceding July 1 of that year. 18-28-207. However, the city may charge a reasonable “dormancy charge” from deposits that are presumed abandoned if there is a written contract between the city and customer so providing and if the city “regularly imposes the charge, which is not regularly reversed or cancelled.” Ark. Code Ann. § 18-28-205.

Note that the unclaimed property law only applies only to refundable deposits. It does not apply to any connection or startup fees that a city may impose on new service. An ordinance creating a connection fee could state that it is nonrefundable so that there will not be any misunderstanding by the customer. However, any such fee would not apply retroactively to customers who are already online.