

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2747 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Trey Caldwell _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 PROPOSED POLICY
4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2747

By: Caldwell (Trey)

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8 PROPOSED POLICY COMMITTEE SUBSTITUTE

9 An Act relating to public utilities; amending 17 O.S.
10 2021, Section 286, which relates to electricity;
11 modifying certain requirements; determining fuel
12 type; providing a new application window; determining
13 reasonable alternatives; providing for a separate
14 rate adjustment mechanism allowing for refunds;
15 creating elections to make new deferrals; allowing
16 for certain increases after certain rate cases;
17 determining the start of new deferrals; providing for
18 alternative dates; requiring certain reviews by the
19 Oklahoma Corporation Commission; allowing for certain
20 assets to be added into rate basis under specific
21 circumstances; providing certain assets not be in
22 specific rate basis to accrue certain costs; allowing
23 for certain expenses and offsets; determining how
24 certain returns are to be calculated; applying
certain provisions to certain elections; authorizing
the Commission to ensure lowest reasonable rates;
allowing for certain entities to construct and
maintain its own facilities; requiring certain
entities to provide certain information; providing
for the use of competitive bids; requiring the use of
an independent evaluator; protecting the use of
certain right of ways owned by specific entities;
protecting entities ability to take certain actions;
determining certain exempt entities; prohibiting
certain offers to customers; providing for
codification; and declaring an emergency.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2021, Section 286, is amended to read as follows:

Section 286. A. 1. The portion of costs incurred by an electric utility, which is subject to rate regulation by the Corporation Commission, for transmission upgrades approved by a regional transmission organization to which the utility is a member and resulting from an order of a federal regulatory authority having legal jurisdiction over interstate regulation of transmission rates, shall be presumed recoverable by the utility. The presumption established in this paragraph may be rebutted by evidence that the costs so incurred by the utility for the transmission upgrades exceed the scope of the project authorized by the regional transmission organization or order issued by the federal regulatory authority having jurisdiction over interstate regulation of transmission rates. The Commission shall transmit rules to implement the requirements of this subsection to the Legislature on or before April 1, 2006. The rules may authorize an electric utility to periodically adjust its rates to recover all or a portion of the costs so incurred by the utility for the transmission upgrades.

1 2. Reasonable costs incurred by an electric utility for
2 transmission upgrades:

3 a. needed to develop wind generation in this state,

4 b. approved by the Southwest Power Pool, and

5 c. placed into service before December 31, 2013,

6 shall be presumed recoverable through a periodic adjustment in the
7 rates of the utility, provided that the presumption of the recovery
8 of such costs or the recovery of such costs through a periodic
9 adjustment in rates may be rebutted by evidence presented to the
10 Commission. The determination of whether the costs shall be
11 recovered and whether the costs shall be recovered through a
12 periodic adjustment of rates shall be made by the Commission
13 following proper notice and hearing in a cause to be filed by the
14 electric utility in which it files such information as the
15 Commission may require.

16 B. An electric utility subject to rate regulation by the
17 Corporation Commission may file an application seeking Commission
18 authorization of a plan by the utility to make capital expenditures
19 for equipment or facilities necessary to comply with the federal
20 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive
21 Environmental Response, Compensation, and Liability Act (CERCLA),
22 the Emergency Planning & Community Right-to-Know Act (EPCRA), the
23 Endangered Species Act (ESA), the National Environmental Policy Act
24 (NEPA), the Occupational Safety and Health Act (OSHA), the Oil

1 Pollution Act (OPA), the Pollution Prevention Act (PPA), the
2 Resource Conservation and Recovery Act (RCRA), the Safe Drinking
3 Water Act (SDWA), the Toxic Substances Control Act (TSCA), all as
4 amended, and, as the Commission may deem appropriate, federal,
5 state, local or tribal environmental requirements which apply to
6 generation facilities. If approved by the Commission, after notice
7 and hearing, the equipment or facilities specified in the approved
8 utility plan are conclusively presumed used and useful. The utility
9 may elect to periodically adjust its rates to recover the costs of
10 the expenditures. The utility shall file a request for a review of
11 its rates pursuant to Section 152 of this title no more than twenty-
12 four (24) months after the utility begins recovering the costs
13 through a periodic rate adjustment mechanism and no more than
14 twenty-four (24) months after the utility begins recovering the
15 costs through any subsequent periodic rate adjustment mechanism.
16 Provided further, that a periodic rate adjustment or adjustments are
17 not intended to prevent a utility from seeking cost recovery of
18 capital expenditures as otherwise may be authorized by the
19 Commission. However, the reasonableness of the costs to be
20 recovered by the utility shall be subject to Commission review and
21 approval. The Commission shall promulgate rules to implement the
22 provisions of this subsection, ~~such rules to~~ that shall be
23 transmitted to the Legislature on or before April 1, 2007.

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1 C. 1. An electric utility subject to rate regulation by the
2 Corporation Commission may elect to file an application seeking
3 approval by the Commission to construct a new electric generating
4 facility, to purchase an existing electric generation facility or
5 enter into a long-term contract for purchased power and capacity
6 and/or energy, subject to the provisions of this subsection. If,
7 and to the extent that, the Commission determines there is a need
8 for construction or purchase of the electric generating facility or
9 long-term purchase power contract, the generating facility or
10 contract shall be considered used and useful and its costs shall be
11 subject to cost recovery rules promulgated by the Commission. The
12 Commission shall enter an order on an application filed pursuant to
13 this subsection within two hundred forty (240) days of the filing of
14 the application, unless the generation facility utilizes natural gas
15 as its primary fuel source, following notice and hearing and after
16 consideration of reasonable alternatives. If the generation
17 facility uses natural gas as its primary fuel source, the Commission
18 shall enter an order on an application filed pursuant to this
19 subsection within one hundred eighty (180) days of the filing of the
20 application, following notice and hearing and after consideration of
21 the reasonable alternative.

22 2. Bids received by the utility through a competitive bidding
23 process within twelve (12) months following the final bid due date
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1 of such competitive bidding process shall be considered substantial
2 evidence to satisfy the consideration of reasonable alternatives.

3 ~~2.~~ 3. Following receipt of an application filed pursuant to
4 this subsection, the Corporation Commission staff may file a request
5 to assess the specific costs, to be paid by the electric utility and
6 which shall be deemed to be recoverable, for the costs associated
7 with conducting the analysis or investigation of the application
8 including, but not limited to, the cost of acquiring expert
9 witnesses, consultants, and analytical services. The request shall
10 be filed at and heard by the Corporation Commissioners in the docket
11 opened by the electric utility pursuant to this subsection. After
12 notice and hearing, the Commission shall decide the request.

13 ~~3.~~ 4. Additionally, following receipt of an application filed
14 pursuant to this subsection, the Office of the Attorney General may
15 file a request with the Corporation Commission for the assessment of
16 specific costs, to be paid by the electric utility and which shall
17 be deemed to be recoverable, associated with the performance of the
18 Attorney General's duties as provided by law. Those costs may
19 include, but are not limited to, the cost of acquiring expert
20 witnesses, consultants and analytical services. The request shall
21 be filed at and heard by the Corporation Commissioners in the docket
22 opened by the electric utility pursuant to this subsection. After
23 notice and hearing, the Commission shall decide the request.

1 4. 5. The Commission shall promulgate rules to implement the
2 provisions of this subsection. The rules shall be transmitted to
3 the Legislature on or before April 1, 2006. In promulgating rules
4 to implement the provisions of this subsection, the Commission shall
5 consider, among other things, rules which would:

6 a. permit contemporaneous utility recovery from its
7 customers, the amount necessary to cover the
8 Corporation Commission staff and Attorney General
9 assessments as authorized by this subsection,

10 b. establish how the cost of facilities approved pursuant
11 to this subsection shall be timely reviewed, approved,
12 and recovered or disapproved, and

13 c. establish the information which an electric utility
14 must provide when filing an application pursuant to
15 this subsection.

16 5. 6. The Commission shall ~~also consider rules which may permit~~
17 an electric utility to begin to recover return on ~~or~~ and return of
18 Construction-Work-In-Progress expenses prior to commercial operation
19 of a newly constructed electric generation facility subject to the
20 provisions of this subsection, provided the newly constructed
21 electric generation facility utilizes natural gas as its primary
22 fuel source. The Commission shall permit a separate rate adjustment
23 mechanism, adjusted periodically, to recover the costs described in
24 this section for new capacity in natural gas fired electrical

1 generation facilities. The new natural gas fired generation
2 capacity eligible for those provisions shall also include new
3 natural gas fired capacity additions at an existing electric
4 generation facility. If a public utility implements a rate
5 adjustment mechanism pursuant to this section and subsequently
6 terminates the initiative to construct or acquire a stake in a
7 natural gas generating facility, the Commission shall have the
8 authority, following notice and hearing, to order the public utility
9 to refund customers any amounts collected through such rate
10 adjustment mechanism. In ordering any such refund, the Commission
11 shall give consideration as to the circumstances resulting in the
12 termination of the construction or acquisition.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 295 of Title 17, unless there is
15 created a duplication in numbering, reads as follows:

16 A. Commencing on July 1, 2025, a public utility shall defer to
17 a regulatory asset ninety percent (90%) of all depreciation expense
18 and return associated with all qualifying electric plants recorded
19 to plant-in-service on the utility's books, provided the public
20 utility has submitted notice to the Commission of the public
21 utility's election to make such deferrals pursuant to this section.
22 A qualifying electric plant shall include all incremental electric
23 plants added to plant-in-service by a public utility since the

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1 utility's last general rate case, except transmission facilities or
2 new electric generating units.

3 B. Such deferral shall begin on July 1, 2025, if the public
4 utility has notified the Commission of the public utility's election
5 to make such deferral by such date or shall begin on the date that
6 such election is made if such election is made after July 1, 2025.

7 C. The Commission shall conduct a prudence review of the
8 associated qualifying electric plant resulting in the regulatory
9 asset balances prior to moving such balances into the public
10 utility's rate base. The regulatory asset balances arising under
11 this section shall be adjusted to reflect any prudence disallowances
12 of the associated qualifying electric plant, following notice and
13 hearing, as ordered by the Commission.

14 D. In each general rate proceeding concluded after July 1,
15 2025, the balance of the regulatory asset as the end of the test
16 year shall be included in the public utility's rate base without any
17 offset, reduction, or adjustment based upon consideration of any
18 other factor with the regulatory asset balances arising from the
19 deferrals associated with the qualifying electric plant placed in
20 service after the end of the test year to be included in the rate
21 base in the next general rate proceeding, unless otherwise provided
22 in this section.

23 E. Parts of regulatory asset balances created under this
24 section that are not included in rate base shall accrue carrying

1 costs as the public utility's weighted average cost of capital, plus
2 applicable federal, state, and local income or excise taxes.
3 Regulatory asset balances arising under this section that are
4 included in the rate base shall be recovered through a twenty-year
5 amortization beginning on the date new rates reflecting such
6 amortization take effect.

7 F. Depreciation expense deferred under this section shall
8 account for any qualifying electric plant placed into service less
9 any applicable retirements. Returns deferred under this section
10 shall be determined using the weighted average cost of capital
11 approved by the Commission in the public utility's last general rate
12 case and applied to the change in regulatory asset balances caused
13 by the qualifying electric plant, plus applicable federal, state,
14 and local income or excise taxes. In determining the return
15 deferred, the public utility shall account for changes in all plant-
16 related accumulated deferred income taxes and changes in accumulated
17 depreciation, excluding retirements.

18 G. This section shall only apply to any public utility that has
19 elected to make the deferrals for which this section provides and
20 has filed a notice of such election with the Commission.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 296 of Title 17, unless there is
23 created a duplication in numbering, reads as follows:

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1 A. The Commission shall have the authority to ensure the
2 development of new high-voltage transmission lines of three hundred
3 (300) kilovolts or greater approved for construction in a Southwest
4 Power Pool transmission plan provides reliable service at the lowest
5 reasonable cost to Oklahoma retail electric consumers.

6 B. For a retail electric supplier or rural electric cooperative
7 constructing an extension of its existing electric transmission
8 facility or to the facilities within or through any territory
9 already served by or connecting to facilities owned by it, the
10 retail electric supplier or rural electric cooperative shall be
11 permitted to construct, own, and maintain such facilities provided
12 they meet the following conditions:

13 1. The retail electric supplier or rural electric cooperative
14 identifies any energy resource to which the electric transmission
15 facility is to be directly connected or, to the extent known,
16 resources to which the electric transmission facility could be
17 connected to integrate new or existing natural gas generation;

18 2. The retail electric supplier or rural electric cooperative
19 solicits competitive bids for construction of an extension of the
20 electric transmission facility. Transmission developers, as defined
21 in Section 291 of Title 17 of the Oklahoma Statutes, shall not be
22 precluded from submitting bids through the solicitation described in
23 this section; and

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1 3. Such solicitation for competitive bids is overseen by an
2 independent evaluator chosen from a list approved by the Commission.
3 The Commission's independent evaluator shall consider factors
4 including, but not limited to, cost of construction, cost of
5 operation and maintenance, reliability, and decommissioning in its
6 evaluation.

7 C. Nothing in this section is intended to supersede the rights
8 of any person, firm, corporation, entity, or incumbent electric
9 transmission owner described in any other statute, alter an
10 incumbent electric transmission owner's use and control of its
11 existing right of way, or eliminate any requirement for a
12 transmission developer to seek a Certificate of Authority pursuant
13 to Enrolled House Bill No. 2756 of the 60th Regular Session of the
14 Oklahoma Legislature.

15 D. Nothing in this section is intended to preclude a
16 transmission developer, as defined in Section 291 of Title 17 of the
17 Oklahoma Statutes, from developing, owning, operating, controlling,
18 managing, or maintaining an existing electric transmission facility
19 within this state.

20 E. An electric cooperative which is not a member of the
21 Southwest Power Pool may construct, own, and maintain local electric
22 transmission facilities without regard to the provisions of this
23 section.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 801.10 of Title 17, unless there
3 is created a duplication in numbering, reads as follows:

4 No Commission rate regulated retail electric supplier, as
5 defined in Section 158.22 of Title 17 of the Oklahoma Statutes,
6 shall offer rate-payer-funded incentives, rebates, or inducements to
7 its customers to promote the switching of fuel sources from natural
8 gas to electricity.

9 SECTION 5. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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