

1 STATE OF OKLAHOMA

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

3 POLICY COMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 2747

By: Caldwell (Trey)

7 POLICY COMMITTEE RECOMMENDATION

8 An Act relating to public utilities; amending 17 O.S.
9 2021, Section 286, which relates to electricity;
10 modifying certain requirements; determining fuel
11 type; providing a new application window; determining
12 reasonable alternatives; providing for a separate
13 rate adjustment mechanism allowing for refunds;
14 creating elections to make new deferrals; allowing
15 for certain increases after certain rate cases;
16 determining the start of new deferrals; providing for
17 alternative dates; requiring certain reviews by the
18 Oklahoma Corporation Commission; allowing for certain
19 assets to be added into rate basis under specific
20 circumstances; providing certain assets not be in
21 specific rate basis to accrue certain costs; allowing
22 for certain expenses and offsets; determining how
23 certain returns are to be calculated; applying
24 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.

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

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

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

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

- 23 a. needed to develop wind generation in this state,
- 24 b. approved by the Southwest Power Pool, and

1 c. placed into service before December 31, 2013,
2 shall be presumed recoverable through a periodic adjustment in the
3 rates of the utility, provided that the presumption of the recovery
4 of such costs or the recovery of such costs through a periodic
5 adjustment in rates may be rebutted by evidence presented to the
6 Commission. The determination of whether the costs shall be
7 recovered and whether the costs shall be recovered through a
8 periodic adjustment of rates shall be made by the Commission
9 following proper notice and hearing in a cause to be filed by the
10 electric utility in which it files such information as the
11 Commission may require.

12 B. An electric utility subject to rate regulation by the
13 Corporation Commission may file an application seeking Commission
14 authorization of a plan by the utility to make capital expenditures
15 for equipment or facilities necessary to comply with the federal
16 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive
17 Environmental Response, Compensation, and Liability Act (CERCLA),
18 the Emergency Planning & Community Right-to-Know Act (EPCRA), the
19 Endangered Species Act (ESA), the National Environmental Policy Act
20 (NEPA), the Occupational Safety and Health Act (OSHA), the Oil
21 Pollution Act (OPA), the Pollution Prevention Act (PPA), the
22 Resource Conservation and Recovery Act (RCRA), the Safe Drinking
23 Water Act (SDWA), the Toxic Substances Control Act (TSCA), all as
24 amended, and, as the Commission may deem appropriate, federal,

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

20 C. 1. An electric utility subject to rate regulation by the
21 Corporation Commission may elect to file an application seeking
22 approval by the Commission to construct a new electric generating
23 facility, to purchase an existing electric generation facility or
24 enter into a long-term contract for purchased power and capacity

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

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

21 ~~2.~~ 3. Following receipt of an application filed pursuant to
22 this subsection, the Corporation Commission staff may file a request
23 to assess the specific costs, to be paid by the electric utility and
24 which shall be deemed to be recoverable, for the costs associated

1 with conducting the analysis or investigation of the application
2 including, but not limited to, the cost of acquiring expert
3 witnesses, consultants, and analytical services. The request shall
4 be filed at and heard by the Corporation Commissioners in the docket
5 opened by the electric utility pursuant to this subsection. After
6 notice and hearing, the Commission shall decide the request.

7 ~~3.~~ 4. Additionally, following receipt of an application filed
8 pursuant to this subsection, the Office of the Attorney General may
9 file a request with the Corporation Commission for the assessment of
10 specific costs, to be paid by the electric utility and which shall
11 be deemed to be recoverable, associated with the performance of the
12 Attorney General's duties as provided by law. Those costs may
13 include, but are not limited to, the cost of acquiring expert
14 witnesses, consultants and analytical services. The request shall
15 be filed at and heard by the Corporation Commissioners in the docket
16 opened by the electric utility pursuant to this subsection. After
17 notice and hearing, the Commission shall decide the request.

18 ~~4.~~ 5. The Commission shall promulgate rules to implement the
19 provisions of this subsection. The rules shall be transmitted to
20 the Legislature on or before April 1, 2006. In promulgating rules
21 to implement the provisions of this subsection, the Commission shall
22 consider, among other things, rules which would:

23 a. permit contemporaneous utility recovery from its
24 customers, the amount necessary to cover the

1 Corporation Commission staff and Attorney General
2 assessments as authorized by this subsection,

3 b. establish how the cost of facilities approved pursuant
4 to this subsection shall be timely reviewed, approved,
5 and recovered or disapproved, and

6 c. establish the information which an electric utility
7 must provide when filing an application pursuant to
8 this subsection.

9 ~~5.~~ 6. The Commission shall ~~also consider rules which may permit~~
10 an electric utility to begin to recover return on ~~or~~ and return of
11 Construction-Work-In-Progress expenses prior to commercial operation
12 of a newly constructed electric generation facility subject to the
13 provisions of this subsection, provided the newly constructed
14 electric generation facility utilizes natural gas as its primary
15 fuel source. The Commission shall permit a separate rate adjustment
16 mechanism, adjusted periodically, to recover the costs described in
17 this section for new capacity in natural-gas-fired electrical
18 generation facilities. The new natural-gas-fired generation
19 capacity eligible for those provisions shall also include new
20 natural-gas-fired capacity additions at an existing electric
21 generation facility. If a public utility implements a rate
22 adjustment mechanism pursuant to this section and subsequently
23 terminates the initiative to construct or acquire a stake in a
24 natural gas generating facility, the Commission shall have the

1 authority, following notice and hearing, to order the public utility
2 to refund customers any amounts collected through such rate
3 adjustment mechanism. In ordering any such refund, the Commission
4 shall give consideration as to the circumstances resulting in the
5 termination of the construction or acquisition.

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

9 A. Commencing on July 1, 2025, a public utility shall defer to
10 a regulatory asset ninety percent (90%) of all depreciation expense
11 and return associated with all qualifying electric plants recorded
12 to plant-in-service on the utility's books, provided the public
13 utility has submitted notice to the Commission of the public
14 utility's election to make such deferrals pursuant to this section.
15 A qualifying electric plant shall include all incremental electric
16 plants added to plant-in-service by a public utility since the
17 utility's last general rate case, except transmission facilities or
18 new electric generating units.

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

23 C. The Commission shall conduct a prudence review of the
24 associated qualifying electric plant resulting in the regulatory

1 asset balances prior to moving such balances into the public
2 utility's rate base. The regulatory asset balances arising under
3 this section shall be adjusted to reflect any prudence disallowances
4 of the associated qualifying electric plant, following notice and
5 hearing, as ordered by the Commission.

6 D. In each general rate proceeding concluded after July 1,
7 2025, the balance of the regulatory asset as the end of the test
8 year shall be included in the public utility's rate base without any
9 offset, reduction, or adjustment based upon consideration of any
10 other factor with the regulatory asset balances arising from the
11 deferrals associated with the qualifying electric plant placed in
12 service after the end of the test year to be included in the rate
13 base in the next general rate proceeding, unless otherwise provided
14 in this section.

15 E. Parts of regulatory asset balances created under this
16 section that are not included in rate base shall accrue carrying
17 costs as the public utility's weighted average cost of capital, plus
18 applicable federal, state, and local income or excise taxes.
19 Regulatory asset balances arising under this section that are
20 included in the rate base shall be recovered through a twenty-year
21 amortization beginning on the date new rates reflecting such
22 amortization take effect.

23 F. Depreciation expense deferred under this section shall
24 account for any qualifying electric plant placed into service, less

1 any applicable retirements. Returns deferred under this section
2 shall be determined using the weighted average cost of capital
3 approved by the Commission in the public utility's last general rate
4 case and applied to the change in regulatory asset balances caused
5 by the qualifying electric plant, plus applicable federal, state,
6 and local income or excise taxes. In determining the return
7 deferred, the public utility shall account for changes in all plant-
8 related accumulated deferred income taxes and changes in accumulated
9 depreciation, excluding retirements.

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

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

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

21 B. For a retail electric supplier or rural electric cooperative
22 constructing an extension of its existing electric transmission
23 facility or to the facilities within or through any territory
24 already served by or connecting to facilities owned by it, the

1 retail electric supplier or rural electric cooperative shall be
2 permitted to construct, own, and maintain such facilities, provided
3 they meet the following conditions:

4 1. The retail electric supplier or rural electric cooperative
5 identifies any energy resource to which the electric transmission
6 facility is to be directly connected or, to the extent known,
7 resources to which the electric transmission facility could be
8 connected to integrate new or existing natural gas generation;

9 2. The retail electric supplier or rural electric cooperative
10 solicits competitive bids for construction of an extension of the
11 electric transmission facility. Transmission developers, as defined
12 in Section 291 of Title 17 of the Oklahoma Statutes, shall not be
13 precluded from submitting bids through the solicitation described in
14 this section; and

15 3. Such solicitation for competitive bids is overseen by an
16 independent evaluator chosen from a list approved by the Commission.
17 The Commission's independent evaluator shall consider factors
18 including, but not limited to, cost of construction, cost of
19 operation and maintenance, reliability, and decommissioning in its
20 evaluation.

21 C. Nothing in this section is intended to supersede the rights
22 of any person, firm, corporation, entity, or incumbent electric
23 transmission owner described in any other statute, alter an
24 incumbent electric transmission owner's use and control of its

1 existing right-of-way, or eliminate any requirement for a
2 transmission developer to seek a Certificate of Authority pursuant
3 to Enrolled House Bill No. 2756 of the 60th Regular Session of the
4 Oklahoma Legislature.

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

10 E. An electric cooperative which is not a member of the
11 Southwest Power Pool may construct, own, and maintain local electric
12 transmission facilities without regard to the provisions of this
13 section.

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

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

22 SECTION 5. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 60-1-12819 JL 02/21/25

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24