

1 ENGROSSED HOUSE
2 BILL NO. 2747

By: Caldwell (Trey), Hilbert,
and Dobrinski of the House

3 and

4 Jett of the Senate

5
6 [public utilities - electricity - requirements -
7 fuel type - application window - reasonable
8 alternatives - separate rate adjustment mechanism -
9 refunds - elections - deferrals - increases -
10 alternative dates - reviews by the Oklahoma
11 Corporation Commission - rate basis - costs -
12 expenses - offsets - lowest reasonable rates -
13 facilities - competitive bids - independent
14 evaluator - exempt entities - codification -
15 emergency]

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

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

21 Section 286. A. 1. The portion of costs incurred by an
22 electric utility, which is subject to rate regulation by the
23 Corporation Commission, for transmission upgrades approved by a
24 regional transmission organization to which the utility is a member

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

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

- 17 a. needed to develop wind generation in this state,
- 18 b. approved by the Southwest Power Pool, and
- 19 c. placed into service before December 31, 2013,

20 shall be presumed recoverable through a periodic adjustment in the
21 rates of the utility, provided that the presumption of the recovery
22 of such costs or the recovery of such costs through a periodic
23 adjustment in rates may be rebutted by evidence presented to the
24 Commission. The determination of whether the costs shall be

1 recovered and whether the costs shall be recovered through a
2 periodic adjustment of rates shall be made by the Commission
3 following proper notice and hearing in a cause to be filed by the
4 electric utility in which it files such information as the
5 Commission may require.

6 B. An electric utility subject to rate regulation by the
7 Corporation Commission may file an application seeking Commission
8 authorization of a plan by the utility to make capital expenditures
9 for equipment or facilities necessary to comply with the federal
10 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive
11 Environmental Response, Compensation, and Liability Act (CERCLA),
12 the Emergency Planning & Community Right-to-Know Act (EPCRA), the
13 Endangered Species Act (ESA), the National Environmental Policy Act
14 (NEPA), the Occupational Safety and Health Act (OSHA), the Oil
15 Pollution Act (OPA), the Pollution Prevention Act (PPA), the
16 Resource Conservation and Recovery Act (RCRA), the Safe Drinking
17 Water Act (SDWA), the Toxic Substances Control Act (TSCA), all as
18 amended, and, as the Commission may deem appropriate, federal,
19 state, local or tribal environmental requirements which apply to
20 generation facilities. If approved by the Commission, after notice
21 and hearing, the equipment or facilities specified in the approved
22 utility plan are conclusively presumed used and useful. The utility
23 may elect to periodically adjust its rates to recover the costs of
24 the expenditures. The utility shall file a request for a review of

1 its rates pursuant to Section 152 of this title no more than twenty-
2 four (24) months after the utility begins recovering the costs
3 through a periodic rate adjustment mechanism and no more than
4 twenty-four (24) months after the utility begins recovering the
5 costs through any subsequent periodic rate adjustment mechanism.
6 Provided further, that a periodic rate adjustment or adjustments are
7 not intended to prevent a utility from seeking cost recovery of
8 capital expenditures as otherwise may be authorized by the
9 Commission. However, the reasonableness of the costs to be
10 recovered by the utility shall be subject to Commission review and
11 approval. The Commission shall promulgate rules to implement the
12 provisions of this subsection, ~~such rules to~~ that shall be
13 transmitted to the Legislature on or before April 1, 2007.

14 C. 1. An electric utility subject to rate regulation by the
15 Corporation Commission may elect to file an application seeking
16 approval by the Commission to construct a new electric generating
17 facility, to purchase an existing electric generation facility or
18 enter into a long-term contract for purchased power and capacity
19 and/or energy, subject to the provisions of this subsection. If,
20 and to the extent that, the Commission determines there is a need
21 for construction or purchase of the electric generating facility or
22 long-term purchase power contract, the generating facility or
23 contract shall be considered used and useful and its costs shall be
24 subject to cost recovery rules promulgated by the Commission. The

1 Commission shall enter an order on an application filed pursuant to
2 this subsection within two hundred forty (240) days of the filing of
3 the application, unless the generation facility utilizes natural gas
4 as its primary fuel source, following notice and hearing and after
5 consideration of reasonable alternatives. If the generation
6 facility uses natural gas as its primary fuel source, the Commission
7 shall enter an order on an application filed pursuant to this
8 subsection within one hundred eighty (180) days of the filing of the
9 application, following notice and hearing and after consideration of
10 the reasonable alternative.

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

15 3. Following receipt of an application filed pursuant to this
16 subsection, the Corporation Commission staff may file a request to
17 assess the specific costs, to be paid by the electric utility and
18 which shall be deemed to be recoverable, for the costs associated
19 with conducting the analysis or investigation of the application
20 including, but not limited to, the cost of acquiring expert
21 witnesses, consultants, and analytical services. The request shall
22 be filed at and heard by the Corporation Commissioners in the docket
23 opened by the electric utility pursuant to this subsection. After
24 notice and hearing, the Commission shall decide the request.

1 ~~3.~~ 4. Additionally, following receipt of an application filed
2 pursuant to this subsection, the Office of the Attorney General may
3 file a request with the Corporation Commission for the assessment of
4 specific costs, to be paid by the electric utility and which shall
5 be deemed to be recoverable, associated with the performance of the
6 Attorney General's duties as provided by law. Those costs may
7 include, but are not limited to, the cost of acquiring expert
8 witnesses, consultants and analytical services. The request shall
9 be filed at and heard by the Corporation Commissioners in the docket
10 opened by the electric utility pursuant to this subsection. After
11 notice and hearing, the Commission shall decide the request.

12 ~~4.~~ 5. The Commission shall promulgate rules to implement the
13 provisions of this subsection. The rules shall be transmitted to
14 the Legislature on or before April 1, 2006. In promulgating rules
15 to implement the provisions of this subsection, the Commission shall
16 consider, among other things, rules which would:

- 17 a. permit contemporaneous utility recovery from its
18 customers, the amount necessary to cover the
19 Corporation Commission staff and Attorney General
20 assessments as authorized by this subsection,
- 21 b. establish how the cost of facilities approved pursuant
22 to this subsection shall be timely reviewed, approved,
23 and recovered or disapproved, and

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1 c. establish the information which an electric utility
2 must provide when filing an application pursuant to
3 this subsection.

4 ~~5.~~ 6. The Commission shall ~~also consider rules which may permit~~
5 an electric utility to begin to recover return on ~~or~~ and return of
6 Construction-Work-In-Progress expenses prior to commercial operation
7 of a newly constructed electric generation facility subject to the
8 provisions of this subsection, provided the newly constructed
9 electric generation facility utilizes natural gas as its primary
10 fuel source. The Commission shall permit a separate rate adjustment
11 mechanism, adjusted periodically, to recover the costs described in
12 this section for new capacity in natural-gas-fired electrical
13 generation facilities. The new natural-gas-fired generation
14 capacity eligible for those provisions shall also include new
15 natural-gas-fired capacity additions at an existing electric
16 generation facility. If a public utility implements a rate
17 adjustment mechanism pursuant to this section and subsequently
18 elects to terminate the initiative to construct or acquire a stake
19 in a natural gas generating facility, the public utility shall
20 automatically refund customers, from the same rate adjustment
21 mechanism in which costs were recovered, the total amount that was
22 collected plus interest at the one-year U.S. Treasury Bill rate
23 through the mechanism, over a period not to exceed ninety (90) days
24 from the effective date of the termination of the initiative.

1 7. For any new natural-gas-fired-generating facility
2 constructed pursuant to this section, an electric utility shall
3 secure a firm contract to transport natural gas to the generating
4 facility. Such a contract shall be secured pursuant to a
5 competitive solution process conducted in accordance with applicable
6 Commission rules. The cost incurred for such a contract shall be
7 presumed recoverable by the electric utility through its applicable
8 fuel adjustment clause. Costs assessed upon the electric utility by
9 the Commission for noncompliance with this section shall not be
10 recoverable from the electric utility's customers. In the event
11 that the electric utility does not receive a bid for firm
12 transportation as a result of its competitive solicitation, the
13 electric utility shall be considered compliant with the requirement
14 of this section; provided that the Commission determines that such
15 competitive solicitation is for a firm contract for transportation
16 of natural gas which could be reasonably provided by an available
17 pipeline.

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

21 A. Commencing on July 1, 2025, a public utility shall defer to
22 a regulatory asset ninety percent (90%) of all depreciation expense
23 and return associated with all qualifying electric plants recorded
24 to plant-in-service on the utility's books, provided the public

1 utility has submitted notice to the Commission of the public
2 utility's election to make such deferrals pursuant to this section.
3 A qualifying electric plant shall include all incremental electric
4 plants added to plant-in-service by a public utility since the
5 utility's last general rate case, except transmission facilities or
6 new electric generating units.

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

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

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

1 base in the next general rate proceeding, unless otherwise provided
2 in this section.

3 E. Parts of regulatory asset balances created under this
4 section that are not included in rate base shall accrue carrying
5 costs as the public utility's weighted average cost of capital, plus
6 applicable federal, state, and local income or excise taxes.
7 Regulatory asset balances arising under this section that are
8 included in the rate base shall be recovered through a twenty-year
9 amortization beginning on the date new rates reflecting such
10 amortization take effect.

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

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

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

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

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

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

22 2. The retail electric supplier or rural electric cooperative
23 solicits competitive bids for construction of an extension of the
24 electric transmission facility. Transmission developers, as defined

1 in Enrolled House Bill No. 2756 of the 1st Session of the 60th
2 Oklahoma Legislature, shall not be precluded from submitting bids
3 through the solicitation described in this section; and

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

10 C. Nothing in this section is intended to supersede the rights
11 of any person, firm, corporation, entity, or incumbent electric
12 transmission owner described in any other statute, alter an
13 incumbent electric transmission owner's use and control of its
14 existing right-of-way, or eliminate any requirement for a
15 transmission developer to seek a Certificate of Authority pursuant
16 to Enrolled House Bill No. 2756 of the 1st Session of the 60th
17 Oklahoma Legislature.

18 D. Nothing in this section is intended to preclude a
19 transmission developer, as defined in Enrolled House Bill No. 2756
20 of the 1st Session of the 60th Oklahoma Legislature, from
21 developing, owning, operating, controlling, managing, or maintaining
22 an existing electric transmission facility within this state.

23 E. An electric cooperative which is not a member of the
24 Southwest Power Pool may construct, own, and maintain local electric

1 transmission facilities without regard to the provisions of this
2 section.

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

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

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

15 Passed the House of Representatives the 26th day of March, 2025.

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Presiding Officer of the House
of Representatives

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20 Passed the Senate the ___ day of _____, 2025.

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Presiding Officer of the Senate

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