

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 60th Legislature (2025)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2747

By: Caldwell (Trey) of the  
House

and

**Jett** of the Senate

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10                                   COMMITTEE SUBSTITUTE

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

1 certain offers to customers; providing for  
2 codification; and declaring an emergency.

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

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

7 Section 286. A. 1. The portion of costs incurred by an  
8 electric utility, which is subject to rate regulation by the  
9 Corporation Commission, for transmission upgrades approved by a  
10 regional transmission organization to which the utility is a member  
11 and resulting from an order of a federal regulatory authority having  
12 legal jurisdiction over interstate regulation of transmission rates,  
13 shall be presumed recoverable by the utility. The presumption  
14 established in this paragraph may be rebutted by evidence that the  
15 costs so incurred by the utility for the transmission upgrades  
16 exceed the scope of the project authorized by the regional  
17 transmission organization or order issued by the federal regulatory  
18 authority having jurisdiction over interstate regulation of  
19 transmission rates. The Commission shall transmit rules to  
20 implement the requirements of this subsection to the Legislature on  
21 or before April 1, 2006. The rules may authorize an electric  
22 utility to periodically adjust its rates to recover all or a portion  
23 of the costs so incurred by the utility for the transmission  
24 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 7. For any new natural gas fired generating facility  
14 constructed pursuant to this section, an electric utility shall  
15 secure a firm contract to transport natural gas to the generating  
16 facility. Such a contract shall be secured pursuant to a  
17 competitive solicitation process conducted in accordance with  
18 applicable Commission rules. The cost incurred for such a contract  
19 shall be presumed recoverable by the electric utility through its  
20 applicable fuel adjustment clause. Costs assessed upon the electric  
21 utility by the Commission for noncompliance with this section shall  
22 not be recoverable from the electric utility's customers. In the  
23 event that the electric utility does not receive a bid for firm  
24 transportation as a result of its competitive solicitation, the



1 electric utility shall be considered compliant with the requirement  
2 of this section; provided that the Commission determines that such  
3 competitive solicitation is for a firm contract for transportation  
4 of natural gas which could be reasonably provided by an available  
5 pipeline.

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 Enrolled House Bill No. 2756 of the 60th Regular Session of the  
13 Oklahoma Legislature, shall not be precluded from submitting bids  
14 through the solicitation described in 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 Enrolled House Bill No. 2756  
7 of the 60th Regular Session of the Oklahoma Legislature, from  
8 developing, owning, operating, controlling, managing, or maintaining  
9 an existing electric transmission facility 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  
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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.

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4 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES  
5 OVERSIGHT, dated 03/05/2025 - DO PASS, As Amended and Coauthored.

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