

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
FOR  
4 HOUSE BILL NO. 2747

By: Caldwell (Trey)

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7 COMMITTEE SUBSTITUTE

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.

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34 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

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

- b. establish how the cost of facilities approved pursuant to this subsection shall be timely reviewed, approved, and recovered or disapproved, and
  - c. establish the information which an electric utility must provide when filing an application pursuant to this subsection.

5. 6. The Commission shall also consider rules which may permit

an electric utility to begin to recover return on ~~or~~ and return of  
Construction-Work-In-Progress expenses prior to commercial operation  
of a newly constructed electric generation facility subject to the  
provisions of this subsection, provided the newly constructed  
electric generation facility utilizes natural gas as its primary  
fuel source. The Commission shall permit a separate rate adjustment  
mechanism, adjusted periodically, to recover the costs described in  
this section for new capacity in natural-gas-fired electrical  
generation facilities. The new natural-gas-fired generation  
capacity eligible for those provisions shall also include new  
natural-gas-fired capacity additions at an existing electric  
generation facility. If a public utility implements a rate  
adjustment mechanism pursuant to this section and subsequently  
terminates the initiative to construct or acquire a stake in a  
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 7. For any new natural gas fired generating facility  
7 constructed pursuant to this section, an electric utility shall  
8 secure a firm contract to transport natural gas to the generating  
9 facility. Such a contract shall be secured pursuant to a  
10 competitive solicitation process conducted in accordance with  
11 applicable Commission rules. The cost incurred for such a contract  
12 shall be presumed recoverable by the electric utility through its  
13 applicable fuel adjustment clause. Costs assessed upon the electric  
14 utility by the Commission for noncompliance with this section shall  
15 not be recoverable from the electric utility's customers. In the  
16 event that the electric utility does not receive a bid for firm  
17 transportation as a result of its competitive solicitation, the  
18 electric utility shall be considered compliant with the requirement  
19 of this section; provided that the Commission determines that such  
20 competitive solicitation is for a firm contract for transportation  
21 of natural gas which could be reasonably provided by an available  
22 pipeline.

1 SECTION 2. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 295 of Title 17, unless there is  
3 created a duplication in numbering, reads as follows:

4       A. Commencing on July 1, 2025, a public utility shall defer to  
5 a regulatory asset ninety percent (90%) of all depreciation expense  
6 and return associated with all qualifying electric plants recorded  
7 to plant-in-service on the utility's books, provided the public  
8 utility has submitted notice to the Commission of the public  
9 utility's election to make such deferrals pursuant to this section.

10 A qualifying electric plant shall include all incremental electric  
11 plants added to plant-in-service by a public utility since the  
12 utility's last general rate case, except transmission facilities or  
13 new electric generating units.

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

18       C. The Commission shall conduct a prudence review of the  
19 associated qualifying electric plant resulting in the regulatory  
20 asset balances prior to moving such balances into the public  
21 utility's rate base. The regulatory asset balances arising under  
22 this section shall be adjusted to reflect any prudence disallowances  
23 of the associated qualifying electric plant, following notice and  
24 hearing, as ordered by the Commission.

1       D. In each general rate proceeding concluded after July 1,  
2 2025, the balance of the regulatory asset as the end of the test  
3 year shall be included in the public utility's rate base without any  
4 offset, reduction, or adjustment based upon consideration of any  
5 other factor with the regulatory asset balances arising from the  
6 deferrals associated with the qualifying electric plant placed in  
7 service after the end of the test year to be included in the rate  
8 base in the next general rate proceeding, unless otherwise provided  
9 in this section.

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

18     F. Depreciation expense deferred under this section shall  
19 account for any qualifying electric plant placed into service, less  
20 any applicable retirements. Returns deferred under this section  
21 shall be determined using the weighted average cost of capital  
22 approved by the Commission in the public utility's last general rate  
23 case and applied to the change in regulatory asset balances caused  
24 by the qualifying electric plant, plus applicable federal, state,

1 and local income or excise taxes. In determining the return  
2 deferred, the public utility shall account for changes in all plant-  
3 related accumulated deferred income taxes and changes in accumulated  
4 depreciation, excluding retirements.

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

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

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

16 B. For a retail electric supplier or rural electric cooperative  
17 constructing an extension of its existing electric transmission  
18 facility or to the facilities within or through any territory  
19 already served by or connecting to facilities owned by it, the  
20 retail electric supplier or rural electric cooperative shall be  
21 permitted to construct, own, and maintain such facilities, provided  
22 they meet the following conditions:

23 1. The retail electric supplier or rural electric cooperative  
24 identifies any energy resource to which the electric transmission

1 facility is to be directly connected or, to the extent known,  
2 resources to which the electric transmission facility could be  
3 connected to integrate new or existing natural gas generation;

4       2. The retail electric supplier or rural electric cooperative  
5 solicits competitive bids for construction of an extension of the  
6 electric transmission facility. Transmission developers, as defined  
7 in Enrolled House Bill No. 2756 of the 60th Regular Session of the  
8 Oklahoma Legislature, shall not be precluded from submitting bids  
9 through the solicitation described in this section; and

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

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

1       D. Nothing in this section is intended to preclude a  
2 transmission developer, as defined in Enrolled House Bill No. 2756  
3 of the 60th Regular Session of the Oklahoma Legislature, from  
4 developing, owning, operating, controlling, managing, or maintaining  
5 an existing electric transmission facility within this state.

6       E. An electric cooperative which is not a member of the  
7 Southwest Power Pool may construct, own, and maintain local electric  
8 transmission facilities without regard to the provisions of this  
9 section.

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

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

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

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