

ENGROSSED HOUSE
BILL NO. 1395

By: Rice of the House
and
Easley of the Senate

An Act relating to the Corporation Commission;
amending 17 O.S. 1991, Sections 250 and 251, as
amended by Section 16, Chapter 315, O.S.L. 1994 (17
O.S. Supp. 1996, Section 251), which relate to rate
adjustments; modifying definition of certain terms;
modifying provision for determining fuel or gas
costs; providing for determining line loss;
providing basis for calculating fuel adjustments;
stating factors which may be considered; providing
for refund or collection of certain differences;
and declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 1991, Section 250, is
amended to read as follows:

Section 250. As used in this act:

1. "Affiliated person, subsidiary, firm or corporation" means
any person, subsidiary, firm or corporation which:
 - a. controls or is controlled by a public utility,
 - b. is controlled by an entity that also controls the
utility, or

c. the utility or an entity controlling the utility has directly or indirectly the power to control;

2. "Commission" means any state regulatory body which has jurisdiction to regulate public utilities or electric cooperatives;

3. "Emergency sales of gas" ~~mean~~ means sales of natural gas made by a public utility or subsidiary thereof to one or more interstate pipelines or other out-of-state customer pursuant to federal law which exempts such transactions from the jurisdiction of the Federal ~~Power~~ Energy Regulatory Commission;

4. "Fair field price" means the value attributed to gas ~~produced from wells owned by a public utility, or a subsidiary or purchased by a public utility from an affiliate of a public utility,~~ which shall be the going price paid by the utility, subsidiary or affiliate to others in the field where such production is located. ~~If the utility, subsidiary or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary or affiliate in the nearest field where conditions are similar. The value to be attributed to residue gas owned by a public utility, or a subsidiary or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary or affiliate to others from the same plant. If the utility, subsidiary or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary or affiliate at the nearest plant where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it,~~ which value is determined either by a competitive bidding process or shown by the utility to be the fair market value of the gas owned or purchased, based upon the best available evidence;

5. "Fuel adjustment clause" means any mechanism which allows a public utility or electric generating cooperative to automatically

adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel for generation of electricity, purchased power or purchased gas;

6. "Heat rate" means a measure of the efficiency of an electric generating station, computed by dividing the total British Thermal Unit content of the fuel burned by the resulting net kilowatt-hours generated;

7. "Line loss" means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system, or the difference between the quantity of gas measured into a gas distribution or transmission system and the quantity of gas sold or transported to customers through that gas distribution or transmission system;

8. "Public utility" or "utility" means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

- a. producing, generating, transmitting, distributing, selling or furnishing electricity, or
 - b. transmitting, directly or indirectly, or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public or for wholesale, unless its wholesale rates are regulated by a federal agency;
- and

9. "Purchased power adjustment clause" means any mechanism which allows an electric public utility or electric distribution cooperative to adjust its charges above or below the base amount included in its rates based upon changes in costs of wholesale power purchased from others.

SECTION 2. AMENDATORY 17 O.S. 1991, Section 251, as amended by Section 16, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1996, Section 251), is amended to read as follows:

Section 251. A. No fuel adjustment clause of any kind shall hereafter be authorized by the Commission if such clause operates automatically to permit charges, assessments or amendments to existing rate schedules to be made which have not been first approved as provided by Sections 251 through 255 of this title, except as otherwise provided for purchased power adjustments by electric distribution cooperatives in Sections 258 through 262 of this title.

B. If the Commission finds that the changes in the price of fuels required for the generation of electricity by any electric public utility, that the changes in the price of purchased electricity required for distribution by any public utility or changes in the price of purchased gas required for distribution by any gas utility, portends a likely and substantial threat to the ability of the utility to earn a reasonable rate of return, or are likely to cause the utility to have an excessive rate of return, or are likely to substantially impair the ability of the utility to acquire adequate supplies of fuel or gas, the Commission may, after investigation and public hearing, approve suitable fuel adjustment clauses to be superimposed upon the existing rate schedules of the public utility. The Commission shall design the fuel adjustment clause to allow the electric or gas public utility to increase or decrease charges to the consumer according to changes in the cost of fuel, purchased power or purchased gas as compared to the price of such fuels or power as reflected in the base rates.

C. In the Commission's design of fuel adjustment clauses, the following rules shall apply:

1. For the purpose of determining fuel or gas costs, the price paid for the fuel or gas shall be computed at the actual cost of

fuel or gas purchased from nonaffiliated persons, firms and corporations; and the actual cost of the production of fuel owned by the public utility or ~~received~~ purchased from affiliated persons, firms and corporations, and in the case of gas, the fair field price for gas owned by the public utility or ~~received~~ purchased from affiliated persons, firms or corporations;

2. The cost of fuel or gas shall be the price paid at the point of delivery into the utility system. In the event the transportation is performed by an affiliated person, firm or corporation as defined in this act which is not subject to the regulatory jurisdiction of the Commission, a regulatory agency of another state having jurisdiction, or the Federal Energy Regulatory Commission or successor agency, the charges made for transportation shall be, if allowed at all, only such as the Commission finds fair, just and reasonable, for purposes of this section. Transportation charges approved by this Commission, a regulatory agency of another state having jurisdiction, or by the Federal Energy Regulatory Commission, or successor agency shall be included for purposes of this section, if allowed by this Commission. The proposed adjustment charge shall not include the cost of transportation beyond its point of delivery into that portion of the utility system regulated by the Corporation Commission unless there is presented to the Commission and it is persuaded by reliable evidence which clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return;

3. The amount of electric energy produced by hydroelectric generating plants and purchased by the public utility proposing the adjustment charge shall be deducted from the amount of electric energy to which any fuel cost applies;

4. The actual efficiency or heat rate of electric public utilities shall be utilized and line losses of electric and gas

utilities shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return. The Commission may limit the level of natural gas line loss permitted through the fuel adjustment clause or purchased gas adjustment clause, based upon safety and economic justification issues;

5. Fuel or gas removed from storage or stockpiles shall be taken into consideration on the basis of the last-in first-out method of inventory accounting; and

6. No estimated fuel adjustment shall be allowed. The adjustment shall be based on the actual cost of fuel, gas or purchased power, which may include measures of costs that are based on factors other than the historical prices paid by the utility for fuel, gas, or purchased power, provided such factors are supported by evidence furnished to the Commission, specifically including, but not limited to, changes supported by indexes, contract prices, or storage supplies as the Commission may find are just and reasonable. All differences between the rates charged and the actual cost of fuel, gas, or purchased power shall be refunded to or collected from ratepayers within a reasonable period of time and in a manner as directed by the Commission.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 5th day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate