ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 220 By: Easley of the Senate

and

Glover of the House

(electric industry restructuring – effective date –

emergency)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(electric utilities - amending sections in Titles 11, 17, 18 and 68 - Electric Restructuring Act of 1997 - rural electric systems - Retail Electric Supplier Certified Territory Act - Joint Electric Utility Task Force - Oklahoma Electrical Energy Tax Code - repealing 68 O.S., Sections 1802 and 1803 - codification - effective date -

emergency)

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

SECTION 1. AMENDATORY Section 2, Chapter 162, O.S.L. 1997 (17 O.S. Supp. 1999, Section 190.2), is amended to read as follows:

Section 190.2 The purpose of this act is to provide for the orderly restructuring of the electric utility industry in the State of Oklahoma in order to allow direct access by retail consumers to the competitive market for the generation of electricity while

maintaining the safety and reliability of the electric system in this state.

A competitive and diverse retail electric market should result in lower electricity prices for consumers, create business opportunities, and encourage the development of increased and enhanced services.

Monopoly utility regulation has been used as a substitute for competition in the supply of electricity, but recent changes in the energy marketplace and technology as well as the passage of the National Energy Policy Act of 1992 and implementation of Order No. 888 by the Federal Energy Regulatory Commission have resulted in increased competition in the electric generation industry. The introduction of consumer choice in retail electric energy suppliers will result in market forces rather than regulation determining the cost and quality of electricity for all consumers.

Restructuring of the electric utility industry to provide greater competition and more efficient regulation is a national trend and the State of Oklahoma must aggressively pursue restructuring and increased consumer choice in order to provide electric generation service at the lowest and most competitive rates.

The primary goals of a restructured electric utility industry are as follows:

1. To reduce the cost of electricity for as many consumers as possible, helping industry to be more competitive, to create more jobs in this state and help lower the cost of government by reducing the amount and type of regulation now paid for by taxpayers <u>and consumers</u>;

2. To encourage the development of a competitive electricity industry through the unbundling of prices and services and separation of generation services from transmission and <u>electric</u> distribution services;

3. To enable retail electric energy suppliers to engage in fair and equitable competition through open, equal and comparable access to transmission and distribution systems and to avoid wasteful duplication of facilities;

4. To ensure that direct access by retail consumers to the competitive market for generation be implemented in the State of Oklahoma by July 1, 2002; ~~and~~

5. To ensure that proper standards of safety, reliability and service are maintained in a restructured electric service industry;

6. To ensure that consumer education programs, consumer services and community service programs provided are available in the state and appropriately funded by nonbypassable mechanisms that fully recover the cost of such programs, activities or services;

7. To ensure that electric distribution companies continue to provide electric distribution services to new and existing consumers pursuant to tariffed rates and conditions of service;

8. To ensure that the transition to consumer choice shall be orderly, fair to consumers and provide the investors in Oklahoma's electric utilities with a fair opportunity to fully recover any competitive transition charges; and

9. To avoid wasting resources, costly duplication of electric distribution facilities and unnecessary costs to consumers by requiring electric distribution companies to establish fixed territorial boundaries.

It is in the best interest of the citizens of this state to efficiently and expeditiously move forward to increased competition in the generation and retail sale of electric energy. ~~To ensure a successful transition to a competitive marketplace, a thorough assessment of issues and consequences associated with restructuring shall be undertaken as provided by this act.~~

SECTION 2. AMENDATORY 11 O.S. 1991, Section 21-121, as last amended by Section 1, Chapter 391, O.S.L. 1998 (11 O.S. Supp. 1999, Section 21-121), is amended to read as follows:

Section 21-121. Except as provided in this ~~section~~ act, municipal corporations or public trusts thereof, the Grand River Dam Authority, ~~rural~~ electric cooperatives or investor-owned electric utilities shall not furnish ~~retail~~ electric distribution service to an electric-consuming facility which is currently being served, or which was being served and the electric facilities are in place to render such a service, by a municipal corporation or public trust thereof, the Grand River Dam Authority, ~~a rural~~ an electric cooperative or an investor-owned electric utility unless the entities involved have agreed by mutual consent, in writing, to such transaction. ~~For purposes of~~ As used in this section, the term "electric-consuming facility" means everything that utilizes ~~electric energy from a central station source~~ electricity and is connected to distributed generation or the electric distribution system of an electric distribution company.

SECTION 3. AMENDATORY Section 2, Chapter 391, O.S.L. 1998 (11 O.S. Supp. 1999, Section 21-222), is amended to read as follows:

Section 21-222. ~~There is hereby declared a moratorium on all municipal condemnation proceedings instituted pursuant to Section 437.2 of Title 18 of the Oklahoma Statutes, initiated prior to July 1, 2002. The moratorium shall also apply to all municipalities or public trusts thereof which attempt to condemn the facilities of electric public utilities or rural electric cooperatives for the purpose of utilizing such facilities for the delivery of electric power and energy. If full consumer choice in the supply of electric power and energy is implemented in this state on or before July 1, 2002, the municipal condemnation provisions authorizing municipalities with electric utilities to condemn the facilities of~~

~~rural electric cooperatives contained in Section 437.2 of Title 18 of the Oklahoma Statutes is hereby repealed. If retail consumer choice is not implemented in this state on or before July 1, 2002, this moratorium shall become null and void. The moratorium provided for herein shall have prospective and retroactive application.~~ The provisions of Section 22-104 of this title notwithstanding, no municipal corporation or trust thereof shall have the authority to exercise the right of eminent domain so as to condemn the facilities of any investor-owned electric utility, electric cooperative corporation or any electric distribution company for the purpose of utilizing such facilities for the delivery of electricity.

SECTION 4. AMENDATORY 17 O.S. 1991, Section 158.25, is amended to read as follows:

Section 158.25 A. Except as otherwise provided herein, each retail electric supplier shall have the exclusive right to furnish retail electric distribution service to all electric-consuming facilities located within its certified territory, and shall not furnish, make available, render or extend its retail electric distribution service to a consumer for use in electric-consuming facilities located within the certified territory of another retail electric supplier; provided that any retail electric supplier may extend its facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect any of its facilities or to serve its consumers within its own certified territory.

B. Except as provided in ~~Section 5~~ subsection C and ~~Section 5~~ subsection E of this section, any new electric-consuming facility located in an unincorporated area which has not as yet been included in a map issued by the Commission, pursuant to subsection C of Section ~~4C(1)~~ 158.24 of this title, or certified, pursuant to ~~Section 4~~ subsection D of Section 158.24 of this title, shall be furnished retail electric distribution service by the retail

electric supplier which has an existing distribution line in closer proximity to such electric-consuming facility than is the nearest existing distribution line of any other retail electric supplier. Any disputes under this ~~Section 5 B~~ subsection shall be resolved by the Commission.

C. If the Commission, after hearing, shall determine that the retail electric distribution service being furnished or proposed to be furnished by a retail electric supplier to an electric-consuming facility is inadequate and is not likely to be made adequate, the Commission may authorize another retail electric supplier to furnish retail electric distribution service to such facility.

D. Except as provided in ~~Section 5~~ subsection C of this section, no retail electric supplier shall furnish, make available, render or extend retail electric distribution service to any electric-consuming facility to which such service is being lawfully furnished by another retail electric supplier on the effective date of this act, or to which retail electric distribution service is lawfully commenced thereafter in accordance with this section by another ~~retail~~ electric ~~supplier~~ distribution company.

E. The provisions of this act shall not preclude any retail electric supplier from extending its service after the effective date of this act ~~(1)~~ to its own property and facilities, in an unincorporated area~~, and (2) subject to Section 5 D, to an electric-consuming facility requiring electric service, in an unincorporated area, if the connected load for initial full operation of such electric-consuming facility is to be 1,000 kw or larger~~.

SECTION 5. AMENDATORY 17 O.S. 1991, Section 158.27, as amended by Section 1, Chapter 231, O.S.L. 1993 (17 O.S. Supp. 1999, Section 158.27), is amended to read as follows:

Section 158.27 A. The Commission shall have general supervision over all associations or cooperative corporations as

defined herein with power to fix and establish rates and to prescribe rules affecting their services, operation, and the management and conduct of their business. It shall have full visitorial and inquisitorial power to examine such associations or cooperative corporations and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of the Retail Electric Supplier Certified Territory Act, and with the Constitution and laws of this state, and with the orders of the Commission. The provisions of this section shall not be applicable to generation and transmission associations or cooperative corporations, or transmission associations or cooperative corporations.

B. 1. An association or cooperative corporation shall be subject to rate investigations by the Commission pursuant to subsection A of this section unless a proposed increase in rates and charges does not exceed three percent (3%) based on the previous twelve (12) months revenue generated by the existing rates; provided however, that such association or cooperative corporation shall be subject to subsection A of this section if:

a. the association or cooperative corporation elects, by action of its board of trustees, to be subject to rate investigation by the Commission,

b. the percentage of members, that according to bylaws constitute a quorum not to exceed five percent (5%) of the membership for that particular association or cooperative have signed a petition requesting rate investigation pursuant to ~~paragraphs~~ paragraph 3 or 4 of this subsection, or

c. the Commission declares that the association or cooperative corporation shall be subject to rate investigations by the Commission pursuant to paragraph 6 of this subsection.

2. Each such association or cooperative corporation not subject to rate investigation, at least ninety (90) days before the effective date of any proposed rate increase, shall notify the Commission and each of its member-consumers of the proposed rate increase. Notice to the Commission shall include a verified statement showing the then total number of member-consumers of the association or cooperative corporation.

Notice by the association or cooperative corporation to its member-consumers shall:

a. be in a form prescribed by this section,

b. be by regular mail and may be included in regular member-consumer billings, and

c. include a schedule of the proposed rate schedules, the effective date of the proposed rate increase and the procedure necessary for the member-consumers to petition the Commission to examine and determine the reasonableness of the proposed rate increase.

3. The member-consumers of an association or a cooperative corporation may petition the Commission to examine and determine the reasonableness of the rates and charges proposed by the association or cooperative corporation pursuant to subparagraph b of paragraph 1 of this subsection. The form of such a petition shall be substantially in compliance with subsection C of this section. A petition substantially in compliance with such form shall not be deemed invalid due to minor errors in its form.

4. If, by the effective date of this proposed increase in rates and charges, the Commission has received petitions from less than the number of member-consumers as set out in subparagraph b of

paragraph 1 of this subsection, requesting that the Commission examine the proposed increase in rates and charges, the Commission shall immediately certify such fact to the association or cooperative corporation. If, on or before the effective date of the proposed increase in rates and charges, the Commission has received petitions from the number of member-consumers as set out in subparagraph b of paragraph 1 of this subsection or more, the Commission shall notify the association or cooperative corporation that it will examine and determine the reasonableness of the proposed increase in rates and charges. Rates and charges established by the Commission or by an association or a cooperative corporation pursuant to this section shall be in force for not less than one (1) year and no further increases in rates and charges shall be permitted during said one-year period.

5. No cooperative corporation or association shall have the right to receive more than one rate increase per year for any reason or under any procedures.

6. In addition to the procedure for petition prior to any proposed increase in rates and charges pursuant to paragraphs 1 through 4 of this subsection, the member-consumers of an association or cooperative corporation may at any time petition the Commission to declare the association or cooperative corporation be subject to full scale rate investigation. If the Commission determines that a majority of the member-consumers of an association or a cooperative corporation have properly petitioned that the association or cooperative corporation be subject to full scale rate regulations, the Commission shall certify such fact to the association or cooperative corporation and thereafter the association or cooperative corporation shall be subject to full scale rate investigation by the Commission until at least a majority of the member-consumers of the association or cooperative corporation properly petition that the association or cooperative corporation

shall no longer be subject to such full scale rate investigations by the Commission. The form of such a petition shall substantially comply with subsection C of this section.

A petition substantially in compliance with the form pursuant to subsection C of this section shall not be deemed invalid due to minor errors in its form.

7. Paragraphs 1 through 6 of this subsection apply only to the rates and charges and shall have no effect on the Commission's jurisdiction over the associations or cooperative corporations or the rules and regulations governing the operations of electric utilities.

8. Each association or cooperative corporation, when determining how rates and charges, established under paragraph 2 of this subsection, are to be allocated to the different rate classes, shall apportion such rates and charges in a manner which reflects, as closely as practicable, the costs of providing service to that class.

9. In no event, and under no circumstances, shall the procedures herein provided be utilized for the purpose of establishing special competitive rates in any area in which a cooperative corporation is in direct competition with another regulated retail electric supplier.

C. 1. A petition requesting the Commission to examine and determine the reasonableness of a proposed increase in rates and charges shall be in substantially the following form:

a. Form:

The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Corporation Commission of the State of Oklahoma"; (2) the name of the association or cooperative corporation seeking an increase in rates and charges; (3) the relief sought.

b. Body:

The body of the petition shall consist of four numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts: The allegations of facts stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is based. The allegations will be stated in numbered subparagraphs as necessary for clarity,

(2) Legal Authority: Retail Electric Supplier Certified Territory Act,

(3) Relief Sought: A brief statement of the amount of the increase in rates and charges that is objected to or other relief sought, and

(4) Petitioners: The name, address, telephone number and signature of each member-consumer.

2. A petition requesting rate regulation of an association or cooperative corporation shall be in substantially the following form:

a. Form:

The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Corporation Commission of the State of Oklahoma"; (2) the name of the association or cooperative corporation seeking an increase in rates and charges; (3) the relief sought.

b. Body:

The body of the petition shall consist of four numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts: The allegations of facts stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is based. The allegations will be stated in numbered subparagraphs as necessary for clarity,

(2) Legal Authority: Retail Electric Supplier Certified Territory Act, Sections 158.21 through 158.32 of ~~Title 17 of the Oklahoma Statutes~~ this title,

(3) Relief Sought: A brief statement of the reason the petitioners seek the Commission to regulate the rates and charges of the association or cooperative corporation or other relief sought, and

(4) Petitioners: The name, address, telephone number and signature of each member-consumer.

3. Petitions may only be signed by the member-consumer of the association or cooperative corporation.

D. Upon proceedings brought by an interested person or by action of the Commission, the Commission shall have the jurisdiction to enforce compliance with the Retail Electric Supplier Certified Territory Act, and shall have jurisdiction to prohibit furnishing retail electric distribution service by any retail electric ~~supplier~~ distribution company except in its certified territory or territories, or where lawfully serving, and in connection with such enforcement and prohibition to exercise all powers herein or otherwise granted to the Commission.

E. 1. ~~Rural electric~~ Electric cooperatives, which are owned by the member-consumers they serve, are regulated by the member-consumers themselves acting through an elected governing board. It is declared that the regulation by the Commission under this section may be duplicative of the self-regulation by the rural electric cooperative and may be neither necessary nor cost-effective. It is therefore the purpose of this subsection to determine the necessity of regulation ~~of rates and charges~~ by the Commission by allowing the member-consumers of ~~a rural~~ an electric cooperative to exempt themselves from regulation by the Commission except as provided herein.

2. Except as otherwise provided in paragraphs 4, 5, 6 and 7 of this subsection, ~~the provisions of this section~~ regulation by the Commission shall not apply to ~~rural~~ electric cooperatives ~~with less than seventeen thousand (17,000) meters~~ which comply with paragraph 3 of this subsection.

3. To be exempt, under paragraph 2 of this subsection, from all Commission regulation, except as provided for in this section, a cooperative shall poll its members as follows:

a. an election under this subsection may be called by the Board of Trustees or shall be called not less than one hundred eighty (180) days after receipt of a valid petition signed by not less than five percent (5%) of the members of the cooperative,

b. the proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than twenty-one (21) nor more than forty-five (45) days before the date of the meeting,

c. if the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than one percent (1%) of the cooperative's members,

d. if the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the state Corporation Commission in

writing of the results within ten (10) days after the date of the election, and

e. voting on the proposition for deregulation shall be by mail ballot, provided, members attending the meeting provided for in subparagraph b of this paragraph ~~3 of this subsection~~ may execute and deliver their ballot to the cooperative during or at the conclusion of said meeting.

4. In the event the member-consumers have voted, pursuant to paragraph 3 of this subsection, to exempt themselves from regulation by the Commission, any such cooperative may vote no more than once every twelve (12) months to place said cooperative under the regulation of the Commission, as provided in this section. Said question shall be submitted to the member-consumers of the ~~rural~~ electric cooperative if at least five percent (5%) of the members of the cooperative sign a petition requesting such an election. Such petition shall be submitted to the membership in the same manner as provided for in paragraph 3 of this subsection.

5. Each ~~rural~~ electric cooperative which has voted to exempt itself from Commission regulation ~~under this section~~, when determining how rates and charges established after such exemption are to be allocated to the different rate classes, shall apportion such rates and charges in a manner which reflects, as closely as practicable, the costs of providing service to that class. Each cooperative which has exempted itself from Commission regulation ~~under this section~~ shall file and maintain a copy of all current rates and charges with the Oklahoma Corporation Commission.

6. In no event, and under no circumstances, shall rates and charges established hereunder be utilized for the purpose of establishing special competitive rates in any area in which a cooperative is in direct competition with another regulated retail utility supplier.

7. Notwithstanding the provisions of this section, the Commission shall retain jurisdiction over all cooperatives who have voted to exempt themselves from Commission regulation ~~under this section~~:

a. for all purposes relating to certified territories established under the Retail Electric Supplier Certified Territory Act, ~~and~~

b. for proceedings brought by a regulated utility relating to alleged discriminatory or anti-competitive rates established by an exempt cooperative, or relating to actions to acquire existing ~~customers~~ consumers of a regulated utility using such rates, and

c. for all purposes related to this section, Section 6 of this act and Section 190.4 of this title.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180.12 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Effective May 1, 2001, the Corporation Commission is hereby authorized to assess a fee upon each electric utility or electric distribution company doing business in this state for the purpose of developing and implementing a process for consumer education regarding retail choice.

B. Any assessment levied pursuant to this section by an electric utility or electric distribution company shall be recovered as an operating expense and shall be included in base rates or a monthly service charge. The Commission shall take such action as is necessary to ensure recovery of the assessment during the period for which it was levied.

C. The Commission may provide that the assessment levied by this section be paid monthly, quarterly or annually. The amount assessed shall be paid to the Commission for deposit in the Retail

Choice Consumer Education Revolving Fund created in subsection D of this section.

D. Any assessment collected by the Commission pursuant to this section shall be deposited to the Retail Choice Consumer Education Revolving Fund created by this subsection. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of the monies received by the Commission from the assessment levied pursuant to the provisions of this section. All monies accrued to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission to pay the costs, direct and indirect, incurred to educate consumers regarding retail choice. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims prescribed by law with the Director of State Finance for approval and payment.

E. The Legislature shall establish budgetary limits for Corporation Commission expenditures from the fund. Any assessment levied pursuant to this section shall not exceed the amount of the budgetary limits established by the Legislature for any fiscal year.

F. The total funds collected pursuant to this section shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00) and the assessment shall expire on or before June 30, 2003.

G. The Commission shall annually submit a report setting forth the action taken and detailing the expenditures made pursuant to this section to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Office of the Governor.

H. The State Auditor and Inspector shall conduct an annual audit, the results of which shall be provided to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Office of the Governor and the Commission. The cost of the audit shall be reimbursed to the State Auditor and Inspector from the fund created herein.

SECTION 7. AMENDATORY Section 3, Chapter 162, O.S.L. 1997, as amended by Section 3, Chapter 391, O.S.L. 1998 (17 O.S. Supp. 1999, Section 190.3), is amended to read as follows:

Section 190.3 As used in the Electric Restructuring Act of 1997:

1. "Affiliate" means a person, company, corporation or other business entity owned or effectively controlled by an electric utility, or subsidiary or holding company thereof;

2. "Aggregator" means an entity licensed by the Commission that joins two or more consumers into a single purchasing unit for the purpose of obtaining electricity from a retail electric energy supplier;

3. "Commission" means the Oklahoma Corporation Commission;

~~2.~~ 4. "Competitive market price" means the value electricity would have when purchased or sold in a bona fide third-party transaction or transactions on the open market;

5. "Confidential consumer information" means any information not intended for public disclosure including, but not limited to, information relating to or contained within an interconnection agreement, proprietary consumer information such as billing and credit information and competitive information relating to internal manufacturing processes and trade secrets;

6. "Consumer" means a person or entity purchasing or seeking to purchase electric energy for other than resale;

~~3. "Direct access consumer" means a consumer who chooses to procure retail electric energy supply and related services directly from the competitive market rather than through a retail electric service distributor;~~

~~4.~~ 7. "Consumer-switching request" means a form or process developed by the Commission used by retail electric energy suppliers to notify the electric distribution company that a consumer has

exercised the right to choose or switch retail electric energy suppliers;

8. "Continuity service" means the provisioning by the continuity service provider of electricity for consumers who do not exercise their right to choose a retail electric energy supplier, or who are unable to obtain electricity from a retail electric energy supplier;

9. "Continuity service provider" means the electric distribution company or its affiliated retail electric energy supplier who provides continuity service;

10. "Corporate support services" means services shared between or among an electric utility or an electric distribution company, its parent holding company, or an affiliated entity including, but not limited to, human resources, procurement, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development unrelated to marketing activity or business development for an affiliated retail electric energy supplier regarding its services and products, internal audits, community relations, corporate communications, financial services, financial planning and management support, and other corporate services;

11. "Distributed generation" means a generation unit or units connected at a distribution voltage to the electric distribution system;

12. "Doing business" means, for the purposes of licensing requirements, the making of at least one solicitation for the sale of electricity in the State of Oklahoma by a retail electric energy supplier, or the solicitation of a fee for services rendered by an aggregator;

13. "Electric-consuming facility" means everything that utilizes ~~electric energy from a central station source~~ electricity

and is connected to distributed generation or the electric distribution system of an electric distribution company;

~~5.~~ 14. "Electric distribution company" means any person, or any combination of persons, or lessees, trustees, or receivers of such person, on or after July 1, 2002, owning or operating in this state for compensation equipment or facilities for distributing electricity to or for the public at retail in this state including an investor-owned utility, an electric cooperative corporation, the Grand River Dam Authority, or a municipality or trust thereof which has opted to become subject to the provisions of this act; provided, however, that the term does not include:

a. a retail electric energy supplier which is not otherwise an electric distribution company,

b. any person not otherwise an electric distribution company that:

(1) furnishes electricity only to itself, its employees, or its tenants as an incident of such employee service or tenancy, when such electricity is not resold to or used by others,

(2) owns or operates in this state equipment or facilities used primarily for the production and generation of electric energy, a portion of which may be consumed by that person and any remainder of which is sold at wholesale, or

(3) owns or operates in this state equipment or facilities used, after the implementation of retail open access, solely for the production and generation of electric energy, or

c. a municipal corporation or trust thereof owning a municipal electric utility which has not opted to participate pursuant to the provisions of this act;

15. "Electric distribution services" means those services necessary to, or customarily provided in, the delivery of electricity to a retail electric consumer through the electric distribution system, including, but not limited to, the construction, maintenance, and operation of local distribution facilities, transmission facilities whose rates and conditions of service are not regulated by the Federal Energy Regulatory Commission, the metering and billing of retail sales, and any related accounting, management, and other services;

16. "Electric distribution system" means the physical system of wires, poles, and other equipment designed to deliver electricity to the ultimate consumer for retail consumption, ~~excluding generation and~~ including transmission facilities whose rates and conditions of service are not regulated by the Federal Energy Regulatory Commission;

~~6. "Independent system operator" means an independent entity, not owned or controlled in any manner by an entity which owns generation, transmission, or distribution facilities which coordinates the physical security and stability of the Oklahoma bulk power system;~~

~~7.~~ 17. "Electric utility" means any person, or any combination of persons, or lessees, trustees, and receivers of such person, owning or operating for compensation in this state equipment or facilities for producing, generating, transmitting, distributing, selling, and furnishing electricity at retail in this state, including an investor-owned electric utility, and electric cooperative corporation, the Grand River Dam Authority, or a municipality or trust thereof, but not including the holding company of an investor-owned utility;

18. "Federally mandated cogeneration contract" means a cogeneration contract approved by the Commission, pursuant to Section 210 of the Public Utility Regulatory Policy Act of 1978 and

under which the electric utility is making cogeneration payments on the effective date of this act;

19. "Generation facility" means all real and personal property used in the production of electricity;

20. "Intermingled areas" means those areas included within the municipal boundaries of a municipality by annexation where there are two or more lawful electric distribution companies authorized to provide electric distribution services;

21. "Nondiscriminatory access" means the provision by an electric distribution company of comparable electric distribution services to all licensed retail electric energy suppliers;

22. "Principal electric distribution company" means the electric distribution company which is the predominant provider of electric distribution services within an intermingled area;

23. "Public benefit programs" means all social, economic and environmental programs currently funded through rates charged to consumers receiving electric service in the State of Oklahoma;

~~8.~~ 24. "Retail electric energy supplier" means any entity which sells retail ~~electric energy~~ electricity to consumers;

~~9. "Retail electric service distributor" means any firm, corporation, company, individual or their trustees, lessees or receivers, or cooperative corporation or agency, engaged in the furnishing of retail electric services in this state, exclusive of municipal corporations, or beneficial trusts thereof and the Grand River Dam Authority. Any municipal corporation or beneficial trust thereof or the Grand River Dam Authority may, through its own nonrevocable election, voluntarily opt to become subject to the provisions of this act to participate in electric restructuring and retail consumer choice by adopting a resolution stating that all service provided via facilities owned by such entities will be rendered on an open access nondiscriminatory basis in a manner~~

~~consistent with the provisions of such service by retail electric service distributors subject to this act; and~~

~~10.~~ 25. "Self-regulated electric cooperative" means a cooperative whose members have voted to exempt the cooperative from all Commission regulation pursuant to the provisions of subsection E of Section 158.27 of this title;

26. "Territory Act" means the Retail Electric Supplier Certified Territory Act, as amended;

27. "Transition period" means the period of time between April 25, 1997, and June 30, 2002; and

28. "Transmission line" or "transmission system" means the poles, wires and other equipment, including any fiber optic cable which is a part of such poles, wires and other equipment, designed and constructed to transport bulk electricity ~~between generators and electric distribution systems~~.

SECTION 8. AMENDATORY Section 4, Chapter 162, O.S.L. 1997, as amended by Section 4, Chapter 391, O.S.L. 1998 (17 O.S. Supp. 1999, Section 190.4), is amended to read as follows:

Section 190.4 A. ~~To ensure an orderly and equitable restructuring of the electric utility industry in this state and achieve the goals outlined in Section 190.2 of this title, the Legislature hereby directs the Joint Electric Utility Task Force to undertake a study of all relevant issues relating to restructuring the electric utility industry in this state including, but not limited to, those issues set forth in this section, and develop a proposed electric utility industry restructuring framework for the State of Oklahoma. The Joint Electric Utility Task Force shall address appropriate steps to achieve an orderly transition to a competitive market and may include in addition to the directives in this act other provisions as the task force shall deem necessary and appropriate to expedite the transition to full consumer choice. The Corporation Commission shall assist the task force in achieving the~~

~~goals outlined in the Electric Restructuring Act of 1997; provided, however, during the transition period to full consumer choice, the~~ The Corporation Commission is expressly prohibited from promulgating any rules or issuing any orders ~~relating to the~~ restructuring ~~of~~ Oklahoma's electric utility industry ~~without prior express authorization by the Oklahoma State Legislature~~ except as prescribed by this act.

B. ~~It is the intent of the Legislature that the following principles and directives be adhered to in developing a framework for a restructured industry~~ The Commission, a self-regulated electric cooperative corporation, municipal corporation or trust thereof, or the Grand River Dam Authority shall be responsible for ensuring that reliable electric distribution service is maintained. When exercising this authority:

~~1. Reliability and safety. Appropriate rules shall be promulgated, in accordance with the provisions of this act, ensuring that reliable and safe electric service is maintained;~~

~~2. Competition. Competitive markets are to be encouraged to the greatest extent possible. Regulation should serve as a substitute only in those circumstances where competition cannot provide results that serve the best interests of all consumers;~~

~~3. Consumer choice. Consumers shall be allowed to choose among retail electric energy suppliers to help ensure fully competitive and innovative markets. A process should be established whereby all retail consumers are permitted to choose their retail electric energy suppliers by July 1, 2002. Consumer choice means that retail electric consumers shall be allowed to purchase different levels and quality of electric supply from a variety of retail electric energy suppliers and that every seller of electric generation in the retail market shall have nondiscriminatory open access to the electric distribution system of every retail electric service distributor, subject to this act. The Corporation Commission should ensure that~~

~~consumer confusion will be minimized and consumers will be well informed about changes resulting from restructuring and increased choice;~~

~~4. Regulation and unbundling of services. Entities which own both transmission and distribution, as well as generation facilities, shall not be allowed to use any monopoly position in these services as a barrier to competition. Generation services may be subject to minimal regulation and shall be functionally separated from transmission and distribution services, which services shall remain regulated. All retail electric energy suppliers shall be required to meet certain minimum standards designed to ensure reliability and financial integrity, and be registered with the Corporation Commission;~~

~~5. Unbundling of rates. When consumer choice is introduced, rates shall be unbundled to provide clear price information on the components of generation, transmission and distribution and any other ancillary charges. Electric bills for all classes shall be unbundled, utilizing line itemization to reveal the various component cost of providing electrical services. Charges for public benefit programs currently authorized by statute or the Commission, or both, shall be unbundled and appear in line item format on electric bills for all classes of consumers;~~

~~6. Open access to transmission and distribution facilities. Consumer access to alternative suppliers of electricity requires open access to the transmission grid and the distribution system. Comparability shall be assured for retail electric energy suppliers competing with affiliates of entities supplying transmission and distribution services. The Corporation Commission shall monitor companies providing transmission and distribution services and take necessary measures to ensure that no supplier of such services has an unfair advantage in offering and pricing such services;~~

~~7. Obligation to connect and establishment of firm service territories. An entity providing distribution services shall be relieved of its traditional obligation to provide electric supply but shall have a continuing obligation to provide distribution service for all consumers in its service territory. As part of the restructuring process firm service territories shall be fixed by a date certain, if not currently established by law in order to avoid wasteful duplication of distribution facilities;~~

~~8. Independent system planning committee. The benefits associated with implementing an independent system planning committee composed of owners of electric distribution systems to develop and maintain planning and reliability criteria for distribution facilities shall be evaluated;~~

~~9. Consumer safeguards. Minimum residential consumer service safeguards and protections shall be ensured including programs and mechanisms that enable residential consumers with limited incomes to obtain affordable essential electric service, and the establishment of a default provider or providers for any distribution customer who has not chosen an alternative retail electric energy supplier;~~

~~10. Establishment of a transition period. A defined period for the transition to a restructured electric utility industry shall be established. The transition period shall reflect a suitable time frame for full compliance with the requirements of a restructured utility industry;~~

~~11. Rates for service. Electric rates for all consumer classes shall not rise above current levels throughout the transition period. If possible, electric rates for all consumers shall be lowered when feasible as markets become more efficient in a restructured industry;~~

~~12. Establishment of a distribution access fee. The task force shall consider the establishment of a distribution access fee to be assessed to all consumers in the State of Oklahoma connected to~~

~~electric distribution systems regulated by the Corporation Commission. This fee shall be charged to cover social costs, capital costs, operating costs, and other appropriate costs associated with the operation of electric distribution systems and the provision of electric service to the retail consumer;~~

~~13. Recovery of stranded costs. Electric utilities have traditionally had an obligation to provide service to consumers within their established service territories and have entered into contracts, long-term investments and federally mandated co-generation contracts to meet the needs of consumers. These investments and contracts have resulted in costs which may not be recoverable in a competitive restructured market and thus may be "stranded". Procedures shall be established for identifying and quantifying stranded investments and for allocating costs and mechanisms shall be proposed for recovery of an appropriate amount of prudently incurred, unmitigable and verifiable stranded costs and investments. As part of this process, each entity shall be required to propose a recovery plan which establishes its unmitigable and verifiable stranded costs and investments and a limited recovery period designed to recover such costs expeditiously, provided that the recovery period and the amount of qualified transition costs shall yield a transition charge which shall not cause the total price for electric power, including transmission and distribution services, for any consumer to exceed the cost per kilowatt-hour paid on April 25, 1997, during the transition period. The transition charge shall be applied to all consumers including direct access consumers, and shall not disadvantage one class of consumer or supplier over another, nor impede competition and shall be allocated over a period of not less than three (3) years nor more than seven (7) years; and~~

~~14. Transition costs. All transition costs shall be recovered by virtue of the savings generated by the increased efficiency in~~

~~markets brought about by restructuring of the electric utility industry. All classes of consumers shall share in the transition costs.~~

~~C. The study of all relevant issues related to electric industry restructuring shall be divided into four parts, as follows: independent system operator issues, technical issues, financial issues and consumer issues. All studies created pursuant to this section shall be conducted under the direction of the Joint Electric Utility Task Force. The task force shall direct the Corporation Commission, the Oklahoma Tax Commission, any other state agency or consultant as necessary to assist the task force in the completion of such studies.~~

~~1. The Commission shall commence the study of independent system operator issues no later than July 1, 1997, and provide a final report to the Joint Electric Utility Task Force no later than February 1, 1998. Such report shall be in writing and shall make recommendations as the Commission deems necessary and appropriate regarding the establishment of an independent system operator in the State of Oklahoma or the appropriate region.~~

~~2. No later than July 1, 1998, the Joint Electric Utility Task Force shall commence the study of technical issues related to the restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:~~

~~a. reliability and safety,~~

~~b. unbundling of generation, transmission and distribution services,~~

~~c. market power,~~

~~d. open access to transmission and distribution,~~

~~e. transition issues, and~~

~~f. any other technical issues the task force deems appropriate.~~

~~A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.~~

~~3. No later than July 1, 1998, the Joint Electric Utility Task Force shall commence the study of financial issues related to restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:~~

~~a. rates and charges,~~

~~b. access and transition costs and fees,~~

~~c. stranded costs and their recovery,~~

~~d. stranded benefits and their funding,~~

~~e. municipal financing,~~

~~f. cooperative financing,~~

~~g. investor-owned utility financing, and~~

~~h. any other financial issues the task force deems appropriate.~~

~~A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.~~

~~4. No later than September 1, 1998, the Joint Electric Utility Task Force shall commence the study of consumer issues related to restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:~~

~~a. service territories,~~

~~b. the obligation to serve,~~

~~c. the obligation to connect,~~

~~d. consumer safeguards,~~

~~e. rates for regulated services,~~

~~f. consumer choices,~~

~~g. competition,~~

~~h. licensing of retail electric energy suppliers, and~~

~~i. any other consumer issues the task force finds appropriate.~~

~~A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.~~

~~D. The Joint Electric Utility Task Force may, if it deems necessary, by a majority vote of the members combine or modify any of the studies required by this act. Provided, however, the task force shall not eliminate any of the issues required to be studied herein.~~

1. Every electric utility or affiliate thereof doing business in this state, including, but not limited to, an electric distribution company that owns or controls a transmission system shall be required to be a member in good standing of an approved independent system operator or a regional transmission organization or its equivalent;

2. The Commission shall have jurisdiction to enforce rules related to reliability for those electric distribution companies whose rates and conditions for providing electricity are regulated by the Commission provided that:

a. except as otherwise provided in this subsection, the reliability rules enforced by the Commission during the initial two (2) years following the implementation of retail choice shall be those rules in force and effect on January 1, 2000, and

b. after July 1, 2004, the Commission shall conduct a cost-benefit analysis prior to adopting any changes to reliability rules.

C. In promulgating and enforcing rules necessary for a restructured electric utility industry, the Commission, a self-regulated electric cooperative corporation, a municipal corporation or trust thereof which has opted to become subject to the provisions of this act or the Grand River Dam Authority, should it opt to become subject to this act, shall no later than February 1, 2001, promulgate rules whereby all retail consumers may select a retail

electric energy supplier and acquire electricity from that supplier on or after July 1, 2002, provided that:

1. Every consumer eligible for continuity service shall be provided retail electricity by the continuity service provider until the date the consumer's selection of a retail electric energy supplier is effective;

2. No consumer's selection of a retail electric energy supplier shall be effective without the receipt by an electric distribution company of a bona fide consumer switching request from a licensed retail electric energy supplier;

3. Any bona fide consumer switching request received by an electric distribution company prior to April 1, 2002, shall be implemented on the date of the first reading of that consumer's meter occurring after July 1, 2002, provided the effective date may be extended for good cause;

4. The Commission shall require that each electric distribution company subject to the Commission's ratemaking jurisdiction file for approval an implementation timeline for those consumer switching requests received on or after April 1, 2002, provided that a consumer switching request received by an electric distribution company on or after April 1, 2002, shall not be required to be implemented prior to October 1, 2002;

5. An electric distribution company shall not be required to install nonstandard facilities for purposes of delivering electricity to a retail consumer unless the consumer or its retail electric energy supplier pays the full cost of those facilities; and

6. All administrative costs associated with the processing and implementation of any consumer switching request shall be paid prior to the effective date.

D. On or before February 1, 2001, the Commission shall promulgate rules to establish the filing requirements for a retail

electric energy supplier or aggregator seeking a license to do business; provided, that:

1. No retail electric energy supplier or aggregator shall do business in the state without first securing a license from the Commission;

2. The Commission may require an annual registration fee;

3. An application for a license shall only be granted after notice and hearing, except that any application not acted upon within sixty (60) days of its filing shall be deemed approved;

4. An applicant shall be required to demonstrate:

a. that it has established a business address within the state or a registered service agent,

b. that it submits to the jurisdiction of the state's courts and administrative agencies,

c. that it is a member in good standing or has executed a written agreement for transmission services with a Federal Energy Regulatory Commission-recognized regional transmission organization or its equivalent, and

d. that it has satisfied the requirements of this subsection and any additional requirements established by the Commission;

5. A license may not be sold, assigned or transferred except with Commission approval after notice and hearing;

6. The Commission shall have the authority to impose penalties, including fines and revocation or suspension of a license for good cause shown, including but not limited to the authority to revoke a license for failure to pay any applicable state or local taxes; and

7. In addition to the requirements of paragraphs 1 through 6 of this subsection, any retail electric energy supplier seeking a license to do business shall be required to demonstrate its financial, managerial and technical ability to operate by providing

such information as the Commission may require, including but not limited to:

a. a description of the applicant's business operations,

b. the applicant's Federal Energy Regulatory Commission Docket Number under which the applicant received acceptance for filing for market-based power sales at wholesale, if any,

c. a copy of certification or license from any state where the applicant is authorized to operate as a retail electric energy supplier,

d. a list by state and federal jurisdiction of all proceedings where the applicant, using its present name or another name, sought authorization as a retail electric energy supplier and such authorization was denied, revoked or suspended, or where the applicant was fined or otherwise disciplined by a court or state agency,

e. information demonstrating the applicant's financial capacity to provide the services proposed including, but not limited to:

(1) copies of the applicant's credit rating, if any, or independent financial service reports,

(2) the Commission may impose a level of bonding or demonstrated coverage based on the nature and scope of the applicant's operations,

(3) assurance that the applicant will file annually, by March 31, a report of the deposits and prepayments received from Oklahoma consumers during the preceding calendar year and proof of compliance with division (2) of this subparagraph, if applicable, and

(4) a description of the types and amounts of insurance, if any, carried by the applicant which are specifically intended to provide for or support its financial fitness to perform its obligations as a retail electric energy supplier,

f. information demonstrating the applicant's managerial capacity to provide the services proposed including, but not limited to, the full name of its owner if a sole proprietorship, of each partner if a partnership, or a full list of the officers and directors if a corporation, information regarding any prior convictions or administrative actions for each or any of these related to fraud, dishonesty or unfair dealing and a description of the applicant's experience in the electric industry,

g. a description of the applicant's electronic transaction capabilities,

h. identification of all affiliates of the applicant, and

i. a statement that the applicant has obtained, reviewed, and will comply with the applicable statutes and Commission rules.

E. On March 15, 2001, each electric utility whose rates and conditions for providing electricity are regulated by the Commission shall file a plan for separating its generation facilities, operations and services from the facilities, operations and services required to provide transmission and electric distribution services to consumers on and after July 1, 2002. In the plan:

1. The electric utility may, at its discretion, elect to accomplish separation of the generation facilities, operations and services by utilizing a separate division or department, a nonaffiliated company or companies, or a separate affiliated company

or companies owned by the electric utility's holding company, or by sale to a third party;

2. The separation of generation facilities, operations and services shall be completed no later than midnight, June 30, 2002, provided that nothing herein is intended to preclude a sale, assignment or other transfer prior to that date;

3. Any facilities, operations or services sold, assigned or otherwise transferred for purposes of accomplishing separation of generation services shall be valued for all rate making and other purposes at the amounts assigned to that facility, operation or service in the electric utility's books and records in accordance with Generally Accepted Accounting Principles on the date of the sale, assignment or other transfer;

4. The sale, assignment or other transfer of any facility, operation or service pursuant to this act shall be exempt from any state or local tax;

5. The generation facilities, operations and services separated pursuant to this act shall not be subject to regulation by the Commission on or after their sale, assignment or transfer; and

6. The Commission shall approve a plan which complies with the requirements of this section within ninety (90) days of filing.

F. On August 31, 2001, the Commission shall require each electric utility whose rates and conditions for providing electricity are regulated by the Commission to file an application seeking Commission approval of a plan to unbundle rates; provided, that:

1. The application shall include a current cost-of-service study that unbundles distribution costs from transmission costs and separated generation costs;

2. The utility's proposed distribution costs shall include, but not be limited to:

a. all costs directly or indirectly incurred to provide electric distribution services, including associated transmission services and the access to transmission facilities for retail consumers,

b. the return on facilities and other capital investments necessary to provide distribution services, associated transmission services and access to transmission services,

c. associated operating expenses, including but not limited to an estimated or approved competitive transition charge and applicable taxes,

d. the electric utility's obligations pursuant to any federally mandated cogeneration contract, and

e. unless otherwise authorized by the Legislature, costs associated with facilities, operations and services dedicated to providing meters, meter reading and consumer billing.

G. On or before March 31, 2002, the Commission shall establish the rates to be charged and conditions of service for electric distribution services regulated by the Commission and offered on and after July 1, 2002, by an electric distribution company; provided, that the rates and conditions:

1. Shall be established after completion of a Commission staff audit of a cost-of-service study required in paragraph 1 of subsection F of this section, notice and hearing;

2. Shall be established by allocating cost to various classes of customers based on appropriate allocation methodology;

3. Shall not directly or indirectly include any costs, revenues, losses or gains associated with separation or operation of generation facilities and services;

4. Shall not include indexed or performance-based rates except as such rates are requested by the electric utility and found to be in the public interest;

5. Shall include an amount recovering the difference between the payment obligations of the electric distribution company during the life of any federally mandated cogeneration contract and the fair-market value of the revenues from the federally mandated cogeneration contract during that time, provided that:

a. the amount shall be annually adjusted to reflect the actual payment made and revenues received during the previous year, and

b. the adjustment amount shall be determined pursuant to the provisions of subsection H of this section;

6. Shall include public benefit program costs; and

7. Shall include any other costs authorized for recovery from distribution rates pursuant to law.

H. On or before February 1, 2001, the Commission shall promulgate rules which establish the procedures whereby an electric distribution company shall include in its rates for electric distribution services the value of any federally mandated cogeneration contract, provided that the electric distribution company shall:

1. Use the federally mandated cogeneration contract to satisfy continuity service obligations when the electric distribution company is also the continuity service provider; provided, that the value of a federally mandated cogeneration contract used to satisfy continuity service requirements shall be the difference between the compensation paid pursuant to the contract and the revenue received from the sale of the energy provided pursuant to the contract to continuity service consumers at market price; or

2. At least annually, sell the contract rights in a bona fide arms-length competitive offering, provided, that:

a. an affiliate or affiliates of the electric distribution company shall be eligible to acquire the contract rights pursuant to the competitive offering,

b. the competitive offering shall include a condition that failure by the successful bidder to satisfy its financial obligations to the electric distribution company shall constitute a default and result in the reversion of all contract rights to the electric distribution company,

c. the competitive offering shall include such other conditions as the Commission shall order,

d. nothing herein shall modify, amend or abrogate the electric distribution company's contractual obligations under the terms of the cogeneration contract, and

e. the value of the sale of contract rights of a federally mandated cogeneration contract shall be the difference between the net revenues from the sale of the contract rights and the electric distribution company's compensation obligations pursuant to the terms of the cogeneration contract.

I. The Commission, a self-regulated electric cooperative corporation, a municipal corporation or trust thereof which has opted to become subject to the provisions of this act or the Grand River Dam Authority, should it opt to become subject to this act, shall, on or before February 1, 2001, establish affiliate rules designed to ensure that every electric distribution company doing business in this state conducts its business so as to ensure that distribution service rates do not include any nondistribution business costs; provided, that:

1. Such affiliate rules:

a. shall not apply to activities subject to affiliate rules promulgated under federal law,

b. shall be effective on and after July 1, 2002,

c. shall prohibit an electric distribution company providing electric distribution services in its service territory from:

(1) offering any electric distribution services to an affiliated retail electric energy supplier which it does not make available to any nonaffiliated retail electric energy supplier operating in the electric distribution company's service territory,

(2) conditioning or otherwise tying the providing of electric distribution services to the purchase of goods or services from its affiliated retail electric energy supplier,

(3) permitting its employees to represent that a consumer will receive any undue discriminatory treatment by the electric distribution company as a result of using the goods or services of an affiliated retail electric energy supplier,

(4) unduly discriminating in favor of its affiliated retail electric energy supplier or consumers using the goods or services of its affiliated retail electric energy supplier in the providing of electric distribution services,

(5) identifying potential consumers for its affiliated retail electric energy supplier in a manner which is unduly discriminatory to other retail electric energy suppliers,

(6) soliciting business for its affiliated retail electric energy supplier in an unduly discriminatory manner, or

(7) sharing any competitively sensitive information acquired from a consumer or retail electric energy supplier with any other retail electric energy supplier, including its own affiliated retail electric energy supplier, and

d. shall authorize an electric distribution company and its affiliated retail electric energy supplier to:

(1) share corporate support services, office space, office equipment, contract services, computer operations and information systems; provided, that the costs associated with these services shall be shared on a fully allocated cost basis,

(2) share other joint or common costs; provided, that such costs shall be shared on a fully allocated cost basis,

(3) conduct joint operations in emergency situations; provided, that the electric distribution company must report such activity to the Commission within a reasonable time after its occurrence,

(4) share board members or corporate officers,

(5) transfer employees between the electric distribution company and an affiliated retail electric energy supplier; provided, that a report of each such employee transfer made by an electric distribution company subject to the affiliate rules of the Commission shall be timely filed with the Commission,

(6) participate jointly in meetings to determine technical or operational concerns regarding the

providing of electric distribution services to a consumer or consumers; provided, that the electric distribution company electing to conduct such joint meetings shall make its employees available to a nonaffiliated retail electric energy supplier and its consumer or consumers in a nondiscriminatory fashion,

(7) jointly use the corporate name, trademarks, brands or logos of the electric distribution company or its holding company without restriction, including but not limited to any restriction requiring a disclaimer or compensation,

(8) engage in joint marketing, advertising or promotional activities consistent with the provisions of this section,

(9) jointly use consumer information; provided, that such information shall be made available to nonaffiliated retail electric energy suppliers when requested in writing by the consumer at the same cost charged to the affiliated retail electric energy supplier, and

(10) engage in transactions involving the sale or transfer of goods, property, products or services; provided, that for setting electric service distribution rates:

(a) sales or transfers from the electric distribution company to its affiliated retail electric energy supplier shall be valued on a fully allocated cost basis,

(b) sales or transfers from a retail electric energy supplier to its affiliated electric

distribution company shall be valued based on fair market costs, and

(c) sales or transfers from an affiliate to the distribution company of assets which have previously been separated pursuant to subsection E of this section shall be at the same cost as provided for in that subsection.

Every electric distribution company doing business in the state shall file with the Commission current written procedures implementing the affiliate rules;

2. Any person adversely affected by a violation of the affiliate rules promulgated by a self-regulated electric cooperative corporation, municipal corporation or trust thereof or the Grand River Dam Authority shall file a complaint with the self-regulated electric cooperative corporation Board of Directors, the governing body of the municipal corporation or trust thereof, or the Board of Directors of the Grand River Dam Authority;

3. A self-regulated electric cooperative corporation Board of Directors, the governing body of the municipal corporation or trust thereof, or the Board of Directors of the Grand River Dam Authority, shall hear the complaint at a regular or special meeting within forty-five (45) days from the date the complaint was filed; and

4. After the expiration of ninety (90) days from the date of filing a complaint with a self-regulated electric cooperative corporation Board of Directors, the governing body of the municipal corporation or trust thereof, or the Board of Directors of the Grand River Dam Authority, the district court shall be vested with jurisdiction to adjudicate any controversy and may award to the prevailing party attorney fees, court costs, and expert witness fees and costs.

J. The Commission shall establish distribution service territories in intermingled areas of this state in the following manner:

1. In all intermingled areas of the state where there are two or more electric distribution companies authorized to provide electric distribution services, one of these electric distribution companies shall be established as the principal electric distribution company as provided in this section;

2. Except as otherwise provided in this act, no electric distribution company shall furnish electric distribution services except in areas where it has been designated as the principal electric distribution company under the provisions of this act; provided, that the provisions of this section shall not:

a. preclude any electric distribution company from serving or extending electric distribution service to its own property and facilities in an intermingled area, or

b. prohibit any electric distribution company from extending its distribution facilities through an intermingled area of an electric distribution company, if such extension is necessary for such company to connect any of its facilities, those of an affiliate, or to lawfully serve other electric-consuming facilities;

3. Except as provided herein, subsequent to such determination of the principal electric distribution company, all new electric-consuming facilities in the intermingled areas shall be provided electric distribution services by the principal electric distribution company; provided, however, that all electric distribution companies lawfully providing electric distribution services in an intermingled area may continue to provide electric

distribution services to those electric-consuming facilities which it serves on the effective date of this act;

4. Electric distribution companies authorized to operate in an intermingled area may jointly petition the Commission to approve or modify an agreement between the companies establishing the principal electric distribution company in an intermingled area. The Commission shall:

a. consider a petition jointly filed by all the electric distribution companies authorized to operate in an intermingled area,

b. approve such petition if it finds that the proposed agreement avoids wasting resources, duplication of facilities, or unnecessary costs, or is otherwise in the public interest,

c. retain jurisdiction to modify or void the agreement if the principal electric distribution company designated by the agreement would not otherwise be so designated pursuant to paragraph 7, 8 or 9 of this subsection, and

d. issue an order approving or rejecting such petition within sixty (60) days of filing;

5. In the event mutual consent among the lawful suppliers of electric distribution service is not reached as set forth in paragraph 4 of this subsection within ninety (90) days of the effective date of this act, electric distribution companies shall give notice of disagreement to the Commission by filing an application setting forth the following:

a. the reason(s) for disagreement,

b. a legal description of the area(s) in dispute divided into forty-acre tracts,

c. a proposed map, and

d. the number of electric-consuming facilities claimed by each electric distribution company to be served;

6. For purposes of the application, a forty-acre tract shall be defined as a quarter, quarter section of one of the thirty-six (36) one-square-mile sections of a township according to the United States Government and Survey System;

7. In each forty-acre tract, the principal electric distribution company will be determined by the Commission counting the number of electric-consuming facilities connected to each electric distribution company's facilities in such forty-acre tract on the effective date of this act; and the electric distribution company providing electric distribution services to the most electric-consuming facilities in such forty-acre tract shall be declared by the Commission to be the principal electric distribution company in that area; provided, that:

a. all facilities served through one meter shall be counted as one electric-consuming facility, and

b. an electric distribution company which had installed the only electric distribution service facilities within a subdivision as of October 1, 1999, shall be declared by the Commission to be the principal electric distribution company for such subdivision;

8. In the event the number of electric-consuming facilities of each electric distribution company in a given forty-acre tract is the same, the total number of electric-consuming facilities served by each in the quarter section shall be used by the Commission to determine the principal electric distribution company in the tied forty-acre tract;

9. In the event the total number of electric-consuming facilities of each electric distribution company in the quarter section is equal, the electric distribution company having the

nearest distribution facilities located along the section lines shall be declared by the Commission to be the principal electric distribution company;

10. If both electric distribution companies have electric-consuming facilities along opposite sides of a section line road, the facilities will be considered equally close to the tied area and the Commission shall decide which is the principal electric distribution company;

11. The Commission shall issue an order determining the principal electric distribution company within sixty (60) days of the filing of the application;

12. Upon a determination of the principal electric distribution company pursuant to paragraph 5 of this subsection, each electric distribution company shall file with the Commission the information regarding the identification and location of each intermingled area, all forty-acre tracts therein and the identification of each principal electric distribution company in each such forty-acre tract; provided, that:

a. the Commission shall approve such determinations of the principal electric distribution company if it finds that the purposes of this act will be promoted, and

b. the Commission shall prepare or cause to be prepared within ninety (90) days thereafter a map or maps of uniform scale to show accurately and clearly the areas designated to each such principal electric distribution company;

13. When an area or areas are annexed by a municipal corporation after the effective date of this act that encompasses territory previously certified to an electric distribution company pursuant to the Territory Act, such certified supplier shall become

the principal electric distribution company in such annexed area or areas;

14. When an intermingled area is de-annexed from a municipal corporation after the effective date of this act, the principal electric distribution company shall remain the service territory of the electric distribution company in such de-annexed area or areas;

15. All electricity purchased for ultimate retail consumption within the State of Oklahoma shall be delivered to the ultimate retail consumer by the principal or certified electric distribution company of the area of territory in which the electric-consuming facility is located;

16. Access to the transmission system shall be a nonbypassable electric distribution service which shall be provided by the principal or certified electric distribution company;

17. All such sales within the State of Oklahoma shall be delivered to the ultimate retail consumer by the principal or certified electric distribution company of an intermingled area or territory in which the electric-consuming facility is located;

18. Access to the predominant transmission system of the principal electric distribution company shall be a nonbypassable distribution service which shall be provided by the principal or certified electric distribution company;

19. If the Commission, after hearing, shall determine that an electric distribution company is not furnishing or proposing to furnish adequate electric distribution service, including but not limited to providing nondiscriminatory service, and the electric distribution service is not likely to be made adequate, the Commission may designate a new principal electric distribution company for the forty-acre tract;

20. The Corporation Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend and rescind such orders and rules to carry out the provisions of this subsection; and

21. Any party adversely affected by any action of the Corporation Commission under the provisions of this subsection may appeal to the Supreme Court in the manner now provided in Sections 20 and 21 of Article IX of the Constitution of the State of Oklahoma.

K. On and after July 1, 2002, each electric distribution company or its affiliated retail electric energy supplier, shall be the exclusive continuity service provider for every eligible continuity service consumer connected to its electric distribution system and shall provide continuity service to such eligible consumer until or unless any such consumer is served by an alternative retail electric energy supplier; provided, that:

1. On or before January 1, 2002, and annually thereafter, an electric utility whose rates and conditions of services are regulated by the Commission shall designate its electric distribution company or its affiliated retail electric energy supplier as the continuity service provider for every eligible continuity service consumer connected to its electric distribution system;

2. The continuity service provider shall offer standard service packages under such rates and conditions as shall be approved by the Commission, a self-regulated electric cooperative corporation, municipal corporation or trust thereof which has opted to become subject to the provisions of this act, or the Grand River Dam Authority, should it opt to become subject to this act; provided, that:

a. each standard service package subject to Commission approval shall include:

(1) a rate or rates for electricity which shall not be less than the competitive retail market price,

(2) the electric distribution company's tariffed rates for electric distribution services, and

(3) a list of any other charges to be paid or which may be paid by the continuity service consumer,

b. when establishing a competitive market price the Commission:

(1) may require a continuity service provider which is an electric distribution company subject to the Commission's rate jurisdiction to use a competitive bid process to procure some or all of the electricity necessary to fulfill its obligations,

(2) shall authorize an electric distribution company designated as the continuity service provider to use a purchase power adjustment provision, fuel adjustment clause or agreements for ancillary services,

(3) shall authorize a continuity service provider which is the designated affiliate to charge a price based on the competitive bidding of up to fifty percent (50%) of the electricity necessary to fulfill its annual continuity service obligations,

(4) shall authorize an affiliate or affiliates of the continuity service provider to fully participate in any competitive bid process, and

(5) shall allow purchase power agreements in existence on the effective date of this act to be utilized in fulfilling continuity service obligations,

c. except as provided in this subsection, an affiliate designated as the continuity service provider shall not be subject directly or indirectly to Commission review of its rates, and

d. the Commission shall not require an affiliate of the continuity service provider to dedicate or otherwise utilize generation facilities to meet the requirements of this section;

3. The Commission, a self-regulated electric cooperative corporation, a municipal corporation or trust thereof which has opted to become subject to the provisions of this act or the Grand River Dam Authority, should it opt to become subject to this act, shall determine consumer eligibility for continuity service; provided, that:

a. any consumer, including the combined consumers of an aggregator, whose demand is equal to or in excess of one hundred (100) kilowatts shall not be eligible for continuity service; provided, that an electric cooperative, municipal corporation or trust thereof, or the Grand River Dam Authority may elect to waive this limitation,

b. a consumer eligible for continuity service may not be required to select a retail electric energy supplier or be prohibited from returning to the continuity service provider,

c. a consumer who switches from a retail electric energy supplier to the continuity service provider shall be required to:

(1) give reasonable notice of the switch prior to being provided continuity service, and

(2) remain a continuity service consumer for a reasonable period of time which shall not be less than sixty (60) days,

d. a consumer who is switched from a retail electric energy supplier to the continuity service provider because of an emergency, including but not limited to

bankruptcy or other financial failure of the retail electric energy supplier, shall be required to provide minimal notice, and shall be required to remain on continuity service for a reasonable period of time which shall not be less than sixty (60) days,

e. the continuity service provider shall recover any reasonable additional costs incurred as a result of a consumer's switch from a retail electric energy supplier to the continuity service provider, and

f. the electric distribution company shall charge the consumer or its retail electric energy supplier the reasonable costs associated with any nonstandard facilities, upgrades or configurations required by the consumer or its retail electric energy supplier; and

4. The Commission shall promulgate any rules necessary to implement the requirements of this subsection on or before February 1, 2001.

L. In addition to the requirements of this act, the Commission, a self-regulated electric cooperative corporation, a municipal corporation or trust thereof which has opted to become subject to the provisions of this act or the Grand River Dam Authority, should it opt to become subject to this act, shall prior to February 1, 2001, promulgate rules and regulations to be known as the Retail Electric Consumer's Bill of Rights, including but not limited to:

1. A requirement that each consumer receives an accurate and understandable bill;

2. Approved methods of billing or other communications which disclose prices in a fashion that will allow the consumer to compare the price paid for electricity;

3. Reasonable notice requirements to consumers for changes in consumer rates;

4. Consumers shall not be disconnected due to billing mistakes unless otherwise provided for by contract;

5. A requirement that a retail electric energy supplier obtain written authorization from a consumer prior to charging the consumer for retail electric energy service or causing charges for other services to be placed on a consumer's billing statement; provided, that third-party verification may be utilized in lieu of written authorization for charges other than electric energy service;

6. A requirement that a retail electric energy supplier advise the electric distribution company electronically of a consumer's authorization to provide retail electric energy service;

7. A process whereby the electric distribution company may elect to verify the consumer's authorization prior to initiating service or switching the consumer to a different retail electric energy supplier;

8. Provisions treating consumers' utility billing and payment records as confidential consumer information;

9. A requirement that any retail electric energy supplier making claims as to the composition of their generation mix provide upon request proof of the validity of those claims;

10. Consumers of any aggregator or of any retail electric energy supplier which is affiliated with an electric distribution company whose rates and conditions of service are regulated by the Commission shall be entitled to have disputes regarding charges for electricity resolved by the Commission;

11. If a consumer demonstrates that their retail electric energy supplier has been changed without their consent, the consumer shall be switched back to the original retail electric energy supplier without charge;

12. If a consumer demonstrates that their retail electric energy supplier was changed without their consent, the consumer shall not be liable for charges billed in excess of the amount the

consumer would have been billed by the original retail electric energy supplier; and

13. Establishment of penalties for violation of the requirements of this subsection; provided, that any fine authorized for that purpose shall not exceed One Thousand Dollars ($1,000.00) per affected consumer.

M. On or after July 1, 2000, the Joint Electric Utility Task Force shall commence the study of technical issues related to the unbundling for retail competition of meters, meter reading and billing services and, prior to November 30, 2000, shall complete a final report and recommendation as to the feasibility of authorizing retail competition for such services.

SECTION 9. AMENDATORY Section 5, Chapter 162, O.S.L. 1997, as amended by Section 5, Chapter 391, O.S.L. 1998 (17 O.S. Supp. 1999, Section 190.5), is amended to read as follows:

Section 190.5 ~~To ensure full evaluation and consideration of the impact of restructuring of the electric utility industry on municipal and state tax revenues the Legislature hereby directs the Joint Electric Utility Task Force to study and fully assess the impact of restructuring on state tax revenues and all other facets of the current utility tax structure both on the state and all other political subdivisions of the state. The task force shall direct the Oklahoma Tax Commission to assist the task force in completion of this study. The Oklahoma Tax Commission is hereby authorized to retain such consultants and experts as may be necessary to complete this study. The study shall include the feasibility of establishing a uniform consumption tax or other method of taxation which may be applied in a restructured industry and shall also assess means of ensuring that tax revenues derived by municipalities will not be adversely impacted as a result of restructuring. A final report shall be completed by the task force no later than October 1, 1999.~~ During the transition period prior to full consumer choice, the

Oklahoma Tax Commission is expressly prohibited from promulgating any rule or issuing any order relating to methods of taxation to be applied to a restructured electric industry without prior express authorization by the Oklahoma State Legislature ~~or the Joint Electric Utility Task Force~~.

Notwithstanding any other provisions contained in this act, a uniform tax policy which allows all competitors to be taxed on a fair and equal basis shall be established on or before July 1, 2002.

SECTION 10. AMENDATORY Section 7, Chapter 162, O.S.L. 1997, as amended by Section 7, Chapter 391, O.S.L. 1998 (17 O.S. Supp. 1999, Section 190.7), is amended to read as follows:

Section 190.7 A. Electric distribution ~~providers~~ companies governed by the Retail Electric Supplier Certified Territory Act, Section 158.21 et seq. of this title or municipal corporations or ~~beneficial~~ trusts thereof owning or operating a retail electric distribution system or the Grand River Dam Authority shall not engage in customer switching after the effective date of this act or furnish retail electric service to an electric-consuming facility which is currently being served, or which was being served and the permanent electric facilities are in place to render such service, by a municipal corporation or ~~beneficial~~ trust thereof, a rural electric cooperative or an investor-owned electric utility or the Grand River Dam Authority until full implementation of retail choice, July 1, 2002, unless the entities involved have agreed by mutual consent, in writing, to such transaction. ~~For the purpose of this section, "electric distribution providers" shall mean the same as "retail electric service distributors" as defined by Section 190.3 of this title.~~

B. Any municipal corporation or ~~beneficial~~ trust thereof offering retail electric distribution service from a municipally or trust-owned electric distribution system that decides not to participate in the provisions of this act ~~as outlined in Section~~

~~190.3 of this title~~ shall be prohibited from extending a retail electric distribution primary feeder system beyond its corporate limits with the exception that it may continue to offer retail electric distribution service through the addition of secondary service drops from the primary feeder system it owned outside the corporate limits of such municipality on April 25, 1997. Provided, however, nothing contained in this section shall be construed to prohibit system maintenance, repairs or upgrades to such primary distribution feeder system outside the corporate limits except that secondary service drops shall not be upgraded to primary distribution lines.

C. Any municipal corporation or trust thereof which directly or indirectly provides retail electric power or energy to consumers located beyond its corporate limits shall be deemed to have opted to participate in the provisions of this act.

SECTION 11. AMENDATORY Section 8, Chapter 391, O.S.L. 1998 (17 O.S. Supp. 1999, Section 190.8), is amended to read as follows:

Section 190.8 Any person, firm, association, government agency, authority, electric cooperative, corporation or any affiliate thereof or municipal corporation or trust thereof seeking to use electric transmission and distribution facilities of any ~~retail~~ electric ~~service distributor~~ distribution company for the purpose of supplying retail electric power shall be required to provide equivalent access to its own electric transmission and distribution facilities on a nondiscriminatory basis as a condition to the continuing use of the electric transmission and distribution facilities of any other ~~retail~~ electric ~~service distributor~~ distribution company.

SECTION 12. AMENDATORY Section 9, Chapter 391, O.S.L. 1998 (17 O.S. Supp. 1999, Section 190.9), is amended to read as follows:

Section 190.9 Notwithstanding any other provision of law, all ~~retail~~ electric ~~service distributors~~ distribution companies shall, within the boundaries of a municipal corporation, on or after the effective date of full implementation of retail consumer choice, on a nondiscriminatory basis, collect and remit all applicable municipal taxes assessed against the ~~end~~ consumers on the sale of electricity within such municipality.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 190.10 of Title 17, unless there is created a duplication in numbering, reads as follows:

All electric power and energy purchased for retail consumption, except sales for resale, within the State of Oklahoma, regardless of voltage level, shall be considered a sale at distribution level for purposes of the collection of charges for retail electric service.

SECTION 14. AMENDATORY 18 O.S. 1991, Section 437, is amended to read as follows:

Section 437. This act may be cited as the "~~Rural~~ Oklahoma Electric Cooperative Act".

SECTION 15. AMENDATORY 18 O.S. 1991, Section 437.1, is amended to read as follows:

Section 437.1 Cooperative, nonprofit, membership corporations may be organized under this act for the purpose of generating, transmitting, distributing, supplying ~~electric energy and~~, promoting ~~and~~ or extending the use ~~thereof in rural areas~~ of electricity. Corporations organized under this act and corporations which become subject to this act in the manner hereinafter provided are hereinafter referred to as "cooperatives".

SECTION 16. AMENDATORY 18 O.S. 1991, Section 437.2, is amended to read as follows:

Section 437.2 A cooperative shall have power:

~~(a)~~ 1. To sue and be sued, in its corporate name;

~~(b)~~ 2. To have a perpetual existence unless a limited period of duration is stated in its charter;

~~(c)~~ 3. To adopt a corporate seal and alter the same at pleasure;

~~(d)~~ 4. To generate, manufacture, purchase, acquire, accumulate ~~and~~ or transmit electric energy, and to distribute, sell, supply ~~and~~ or dispose of electric energy ~~in rural areas~~ to its members, to governmental agencies and political subdivisions, and to other persons ~~not in excess of ten percent (10%) of the number of its members~~;

~~(e)~~ 5. To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds of character, and to accept and otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds, and other evidences of indebtedness and any and all types of security therefor;

~~(f)~~ 6. To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in constructing, maintaining and operating electric refrigeration plants;

~~(g)~~ 7. To become a member in one or more other cooperatives or corporations or to own stock therein;

~~(h)~~ 8. To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants, and equipment, and any and all kinds and

classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized; provided, that any and all such electrical construction and maintenance shall conform to the requirements and regulations of the National Electrical Safety Code;

~~(i)~~ 9. To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

~~(j)~~ 10. To borrow money and otherwise contract indebtedness therefor and to secure the payment thereof by mortgage, pledge, deed or trust, or any other encumbrance upon any or all of its then owned or after acquired real or personal property, assets, franchises, revenues or income;

~~(k)~~ 11. To construct, maintain and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys and bridges, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations, constructing or operating electric transmission and distribution lines or systems; provided that in case an area has been or shall be included, as a result of incorporation, annexation, population growth, or otherwise, within the boundaries of a city, town or village, a cooperative which was furnishing electric energy, or was constructing or operating electric facilities, in such area, prior to such inclusion, shall be entitled to construct, maintain and operate electric transmission and distribution lines and related facilities along, upon, under and across all existing and future

public thoroughfares, and to continue and extend the furnishing of electric energy or the construction and operation of electric facilities in such area without obtaining the consent, franchise, license, permit or other authority of such city, town or village, subject, however, to compliance with the lawful safety requirements of such city, town or village as to the manner of constructing and maintaining facilities on such thoroughfares, and subject to payment of taxes of such city, town or village that may be levied and assessed as provided in Section 1201 of Title 68 of the Oklahoma Statutes; ~~and provided further that if such city, town or village in which an area has been or shall be included, as aforesaid, owns and operates a system for the furnishing of electric energy to its inhabitants, the cooperative furnishing electric energy in such area shall transfer to such city, town or village, upon its request, the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, subject, however, to the following requirement: The city, town or village shall pay to the cooperative an amount to compensate the cooperative for the fair value of the cooperative's facilities to be acquired by the city, town or village. If such cooperative and city, town or village cannot agree upon the amount to be paid to the cooperative, the city, town or village is authorized to file a proceeding in the district court of the county in which such city, town or village, or any part thereof, is located, for the acquisition of the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, and the procedure followed and the method of ascertaining just compensation to be paid the cooperative will be as provided in Article 2, Section 24, of the~~

~~Oklahoma Constitution and Sections 53 to 58, inclusive, of Title 66 of the Oklahoma Statutes.~~

~~(l)~~ 12. To conduct its business and exercise any or all of its powers within or without this state;

~~(m)~~ 13. To adopt, amend and repeal bylaws; ~~and~~

~~(n)~~ 14. To do and perform any and other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized; and

~~(o)~~ 15. To have and exercise the right of eminent domain in the same manner and by like proceedings as provided for railroad corporations under the laws of this state. No funds shall be lent by any privately owned electric utility or person connected, either directly or indirectly, to such a cooperative. Any such loan when made shall be void and uncollectible in any court of the State of Oklahoma.

SECTION 17. AMENDATORY 18 O.S. 1991, Section 437.7, is amended to read as follows:

Section 437.7 ~~(a)~~ A. No person who is not an incorporator shall become a member of a cooperative unless such person shall agree to use electric ~~energy~~ distribution services as may be furnished by the cooperative when such electric ~~energy~~ distribution services shall be available through its facilities, except any person not connected to a cooperative electric distribution facility may become a member by acquiring electricity or other related electric services from the cooperative. The bylaws of a cooperative may provide that any person, including a corporation, shall cease to be a member thereof if he shall fail or refuse to use electric ~~energy~~ distribution services or such other services as may be made available by the cooperative or if electric ~~energy shall~~ services are not ~~be~~ made available to such person by the cooperative within a specified time after such person shall have become a member thereof.

Membership in the cooperative shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications, classes of members including voting rights for such classes of members, and limitations in respect to membership.

~~(b)~~ B. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

~~(c)~~ C. Special meetings of the members may be called by the board of trustees, by any three trustees, by not less than ten percent (10%) of the members, or by the president.

~~(d)~~ D. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held in the city or town in which the principal office of the cooperative is located.

~~(e)~~ E. Except as hereinafter otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten (10) nor more than twenty-five (25) days before the date of the meeting.

~~(f)~~ F. Five percent (5%) of all members, present in person, shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

~~(g) Each~~ G. Except as otherwise may be provided by the bylaws, each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be

exercised. In any event, no person shall vote a proxy for more than three members at any meeting of the members.

SECTION 18. AMENDATORY 18 O.S. 1991, Section 437.9, is amended to read as follows:

Section 437.9 Notwithstanding any other provision of this act, the bylaws may provide that the territory in which a cooperative supplies electric ~~energy~~ distribution services or other services to its members shall be divided into two or more voting districts and that, in respect of each such voting district, (1) a designated number of trustees shall be elected by the members residing therein, or (2) a designated number of delegates shall be elected by such members, or (3) both such trustees and delegates shall be elected by such members. In any such case the bylaws shall prescribe the manner in which such voting districts and the members thereof, and the delegates and trustees, if any, elected therefrom shall function and the powers of the delegates, which may include the power to elect trustees. No member at any voting district meeting and no delegate at any meeting shall vote by proxy or by mail.

SECTION 19. AMENDATORY 18 O.S. 1991, Section 437.23, is amended to read as follows:

Section 437.23 Any corporation organized on a nonprofit or a cooperative basis for the purpose of supplying electric energy ~~in rural areas~~ or distribution services and owning and operating electric transmission or distribution lines in a state adjacent to this state may file in the office of the Secretary of State a certified copy of its charter or articles of incorporation, which shall be recorded in a book to be kept by the Secretary of State for that purpose, and thereupon, upon payment of the fees required of a cooperative for the filing of articles of incorporation, and the appointment of a service agent as provided by law, such foreign corporation shall be authorized to transact business in this state

and shall have all the rights, powers and privileges conferred upon a cooperative under this act.

SECTION 20. AMENDATORY 18 O.S. 1991, Section 437.25, is amended to read as follows:

Section 437.25 Each cooperative and each foreign corporation transacting business in this state pursuant to this act shall pay annually, on or before the thirty-first day of August, to the Oklahoma Tax Commission, a fee of One Dollar ($1.00) for each one hundred persons or fraction thereof to whom electricity is supplied within the state by it, as of June thirtieth preceding, but shall be exempt from all other excise and income taxes ~~whatsoever~~, except the appropriate taxes under the provisions of the Oklahoma Electrical Energy Tax Code, and the collection and remittance from its consumers of the appropriate taxes under the provisions of the Oklahoma Sales Tax Code. Provided, however, no cooperative or foreign corporation transacting business in this state shall be required to collect municipal sales taxes within municipalities owning or operating, either directly or through a public trust, their own electric distribution system and which has not opted in to electric restructuring as provided for in the Oklahoma Electric Restructuring Act of 1997, as amended.

SECTION 21. AMENDATORY 18 O.S. 1991, Section 437.28, is amended to read as follows:

Section 437.28 In this act, unless the context otherwise requires~~,~~:

~~(a) "Rural area" means any area not included within the boundaries of any incorporated or unincorporated city, town or village, having a population in excess of one thousand five hundred (1,500) persons, and any area included within the boundaries of any such city, town or village as a result of incorporation, annexation, population growth, or otherwise, in which area a cooperative commenced or commences the construction or operation of electric~~

~~facilities or the furnishing of electric energy prior to such incorporation, annexation or population growth.~~

~~(b)~~ 1. "Person" ~~includes~~ means any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic; and

~~(c)~~ 2. "Member" means each incorporator of a cooperative and each person admitted to and retaining membership therein, and shall include a husband and wife admitted to joint membership.

SECTION 22. AMENDATORY 68 O.S. 1991, Section 1214, is amended to read as follows:

Section 1214. Each cooperative and each foreign corporation transacting business in this state pursuant to the ~~Rural~~ Electric Cooperative Act ~~(18 O.S.1961 Sections 437 - 437.30)~~ shall pay annually, on or before the thirty-first day of August, to the Tax Commission, a fee of One Dollar ($1.00) for each one hundred persons or fraction thereof to whom electricity is supplied within the state by it, as of June 30th preceding, but shall be exempt from all other excise and income taxes whatsoever, except the appropriate taxes under the provisions of the Oklahoma Electrical Energy Tax Code and the collection and remittance from its consumers of the appropriate taxes under the provisions of the Oklahoma Sales Tax Code. Provided, however, no cooperative or foreign corporation transacting business in this state shall be required to collect municipal sales taxes within municipalities owning or operating, either directly or through a public trust, their own electric distribution system and which has not opted in to electric restructuring as provided for in the Oklahoma Electric Restructuring Act of 1997, as amended.

SECTION 23. AMENDATORY 68 O.S. 1991, Section 1354, as last amended by Section 7, Chapter 390, O.S.L. 1999 (68 O.S. Supp. 1999, Section 1354), is amended to read as follows:

Section 1354. Tax levy - Rate - Sales subject to tax.

A. There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, Section 1350 et seq. of this title, an excise tax of four and one-half percent (4.5%) of the gross receipts or gross proceeds of each sale of the following:

1. Tangible personal property, except newspapers and periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, ~~and associated delivery or transmission services,~~ except water, sewage and refuse and those specifically exempt pursuant to the provisions of Section 1357 of this title. In the case of the sale of electric service, all components of the service, including generation, transmission, distribution, marketing, metering, and billing, shall be subject to tax;

3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, pullman car companies, airlines, and other means of transportation for hire, excluding:

a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and

b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Telecommunications services that originate and terminate in this state and that originate or terminate in this state and are charged to the consumer's telephone number or account in this state regardless of where the billing for such service is made, and all local telecommunications service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image. Provided:

a. the term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media, but shall not include the following:

(1) sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail,

(2) any interstate telecommunications service which is:

(a) rendered by a company for private use within its organization, or

(b) used, allocated, or distributed by a company to its affiliated group, or

(3) sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service, and

b. the term "telecommunications services" shall include, but not be limited to sales of any interstate telecommunications services which:

(1) entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

(2) entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges, and

c. the term "interstate" includes any international service that either originates or terminates outside of the fifty (50) United States and the District of Columbia;

5. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph,

multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

7. Service of furnishing storage or parking privileges by auto hotels or parking lots;

8. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

9. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

10. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of Section 1357 of this title;

11. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

12. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

13. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

14. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

16. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

17. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

18. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this section;

19. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

a. the operation of the business,

b. the nature of the business,

c. the turnover of independent contractors,

d. the lack of place of business in which to display a permit or keep records,

e. lack of adequate records,

f. the fact that the persons are minors or transients,

g. the fact that the persons are engaged in service businesses, or

h. any other reasonable reason;

20. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim

for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection; and

21. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

B. All solicitations or advertisements in print or electronic media by Group Three vendors, for the sale of tangible property to be delivered within this state, shall contain a notice that the sale is subject to Oklahoma sales tax, unless the sale is exempt from such taxation.

SECTION 24. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 15 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 1357. Exemptions - General.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar ($1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in Section 1350 et seq. of this title. This exemption shall not apply

to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by Section 1350 et seq. of this title. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television, and the servicing of any advertising devices;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission

that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

6. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 1370.2 of this title, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 1370.2 of this title, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

7. In addition to the exemptions authorized by Section 1357.6 of this title, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011

through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

11. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:

a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or

b. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which are primarily involved in the collection and distribution of food and other household products to other organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which facilitate the distribution of such products to the needy, except sales made in the course of business

for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of food, food products, or clothing to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars ($2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:

a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

18. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

19. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC)

Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and

b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" means a device which replaces a missing part of the human body and shall include any supplies physically connected to the device;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The

provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

22. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

23. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

24. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

25. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power; ~~and~~

26. Beginning July 1, 2000, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. The exemption provided by this paragraph shall be limited to aircraft repairs, modification, and replacement parts for aircraft weighing more than twelve thousand five hundred (12,500) pounds and less than one hundred thousand (100,000) pounds and which aircraft are brought into this state exclusively for such repairs or modification. The exemption provided by this paragraph shall be limited to repairs or modifications made by a new or expanded aircraft repair facility. As used in this paragraph, the term "aircraft" shall have the same meaning as such term is defined in Section 6001 of this title. The

term "new or expanded aircraft repair facility" shall mean any new or expanded facility which repairs, modifies or replaces aircraft parts in which more than Four Million Dollars ($4,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after January 1, 1999; and

27. Sale, assignment or other transfer of title, use or possession of any facility, operation or service, pursuant to the Oklahoma Electric Restructuring Act of 1997, as amended.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1450 of Title 68, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as the "Oklahoma Electrical Energy Tax Code".

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1451 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Legislature finds that the deregulation and restructuring of the electric utility industry in this state, mandated and implemented by the Electric Restructuring Act of 1997, as amended herein, renders the system of ad valorem tax and gross receipts tax currently imposed on the electric utility industry impracticable and infeasible in the restructured environment. The Legislature further finds that the deregulation and restructuring of the electric utility industry necessitates changes to the existing system of taxation in order to preserve revenue neutrality in tax collections for the state, to avoid placing any supplier engaged in the business of generating, distributing, supplying, furnishing, selling, transmitting or delivering electricity at a competitive disadvantage, to minimize additional administrative costs and burdens of property valuation and tax collection, and to avoid the imposition of increased tax burdens on individual consumers of electricity. The Legislature therefore

finds that there is a compelling public need to modify the system of ad valorem and gross receipts taxation as it currently applies to the electric industry by replacing those taxes with this electrical energy tax and an electrical energy consumption excise tax on certain government-operated electrical systems.

B. It is hereby declared the intent of the Legislature that this code shall be construed as amending, revising and renumbering present statutes relating to the taxation of electrical generating companies, electrical transmission companies, and electrical distribution companies and the sale of electricity in respect to matters herein. It is further hereby declared the intent of the Legislature that the electrical energy tax levies enacted herein shall be construed as imposing a tax upon the generation, transmission and distribution of electricity and shall be a replacement tax for all ad valorem taxes and gross receipts taxes currently imposed on electrical generating companies, electrical transmission companies, electrical distribution companies, and electric cooperatives operating in the State of Oklahoma. This electrical energy tax, however, shall not be construed to replace or repeal the provisions of the Oklahoma Sales Tax Code levying a sales tax upon the sale of electricity in the State of Oklahoma. It is furthermore the intent of the Legislature that the revenues derived from this article are intended to be in lieu of the existing tax revenues currently derived from those certain ad valorem and gross receipts taxes as amended or replaced herein.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1452 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Electrical Energy Tax Code:

1. "Distributed generation" means a generation unit or units connected at a distribution voltage to the electric distribution system;

2. "Electric cooperative" means a cooperative, nonprofit membership corporation organized under the provisions of Section 437 et seq. of Title 18 of the Oklahoma Statutes, or any foreign corporation transacting business in this state under the provisions of Section 437 et seq. of Title 18 of the Oklahoma Statutes;

3. "Electrical distribution company" means any person, or any combination of persons, or lessees, trustees, and receivers of such person, on or after January 1, 2002, owning or operating for compensation in this state equipment or facilities for distribution of electricity to or for the public at retail in this state including an investor-owned utility or electric cooperative corporation; provided, however, that the term does not include:

a. a retail electrical energy supplier which is not otherwise an electric distribution company,

b. any person not otherwise an electrical distribution company that:

(1) furnishes electricity only to itself, its employees, or its tenants as an incident of such employee service or tenancy, when such electricity is not resold to or used by others,

(2) owns or operates in this state equipment or facilities used primarily for the production and generation of electrical energy, a portion of which may be consumed by that person and any remainder of which is sold at wholesale, or

(3) owns or operates in this state equipment or facilities used solely for the production, generation or transmission of electrical energy, or

c. a municipal corporation or trust thereof, the Oklahoma Municipal Power Authority or the Grand River Dam Authority owning an electrical distribution company;

4. "Electrical generation company" means any person, or any combination of persons, or lessees, trustees, or receivers of such person, on or after January 1, 2002, owning or operating for compensation in this state equipment or facilities used directly or indirectly in the production of electricity. Provided, however, electrical generating company does not include a self-generator or a distributed generation facility;

5. "Electrical transmission company" means any person, or any combination of persons, or lessees, trustees, or receivers of such person, on or after January 1, 2002, owning or operating for compensation in this state equipment or facilities designed and constructed to transport bulk electricity;

6. "Kilowatt-hour (kWh)" means a unit of energy, equivalent to the energy transferred or expended in one (1) hour by one kilowatt of power;

7. "Person" means any individual, company, partnership, joint venture, joint agreement, association, mutual or otherwise, limited liability company, corporation, estate, trust, business trust, receiver or trustee appointed by any state or federal court, or otherwise, syndicate, this state, any city, municipality, any other political subdivision of this state, or any group or combination acting as a unit, in the plural or singular number;

8. "Self-generator" means a person, other than an electrical generation company, electric cooperative, or municipal or other governmental utility, who generates by means of an on-site facility wholly owned by or leased in its entirety to such person, electricity solely for its own consumption, except for inadvertent unscheduled deliveries to the electric utility furnishing electric service to that self-generator. A person who generates electricity which is consumed by any other person, including any owner, shareholder, member, beneficiary, partner, or associate of the person who generates electricity, is not a self-generator. For purposes of this

subsection, "on-site facility" means an electric power generating plant that is wholly owned by or leased in its entirety to a person and used to generate electricity solely for consumption by such person on the same parcel of land on which such plant is located or on a contiguous parcel of land. For purposes of this subsection, "parcel of land" includes each separate parcel of land shown on the tax list; and

9. "Tax Commission" means the Oklahoma Tax Commission.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1453 of Title 68, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the purpose of the Oklahoma Electrical Energy Tax Code to provide revenues for the support of the functions of the state government of Oklahoma and its subsidiaries and for that purpose it is hereby expressly provided that the revenues derived pursuant to the provisions of the Oklahoma Electrical Energy Tax Code shall be paid to the State Treasurer to be placed to the credit of the Oklahoma Electrical Energy Tax Fund for distribution to those entities currently receiving revenues from ad valorem and/or gross receipts taxes repealed or modified herein.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1454 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby levied upon the generation, transmission and retail distribution of all electrical energy in the State of Oklahoma, regardless of the domicile of the taxpayer, an electrical energy tax of 1.80 mills per kilowatt-hour as follows:

1. Electrical generation companies: An electrical energy tax of .22 mills per kilowatt-hour of electricity generated within this state and delivered into a transmission system is imposed on every person owning or leasing electrical generating facilities, except electricity generated by on-site facilities wholly owned by or leased in their

entirety to a self generator or by distributed generation facilities. Self-generating facilities and distributed generation facilities shall remain subject to ad valorem tax pursuant to Section 2800 et seq. of Title 68 of the Oklahoma Statutes;

2. Electrical transmission companies: An electrical energy tax of .22 mills per kilowatt-hour of electricity transmitted over facilities within this state is imposed on every person owning or leasing electrical transmission lines within this state. Provided, however, any electrical energy transmitted in this state by any person to a person consuming electrical energy directly from an electrical transmission company facility shall be subject to an electrical energy tax of 1.58 mills per kilowatt-hour of electricity transmitted; and

3. Electrical distribution companies: An electrical energy tax of 1.36 mills per kilowatt-hour of electricity distributed within this state to a retail consumer is imposed on every person owning or leasing a distribution system.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1455 of Title 68, unless there is created a duplication in numbering, reads as follows:

Any person who willfully or intentionally fails, neglects or refuses to remit the full amount of the tax levied by this article, or willfully or intentionally fails, neglects or refuses to comply with the provisions of this article shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00) and upon conviction of a second or subsequent offense shall be fined not more than One Thousand Dollars ($1,000.00) or imprisoned in the county jail not exceeding sixty (60) days, or both such fine and imprisonment.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1456 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax levied hereunder on the generation of electricity shall be due and payable to the Oklahoma Tax Commission on the first day of each month by any person liable to remit or pay any tax due hereunder. For the purpose of ascertaining the amount of the tax payable, it shall be the duty of all persons subject to the electrical energy tax on generation, on or before the 25th day of each month, to deliver to the Tax Commission upon forms prescribed and furnished by it, electrical energy tax reports signed, under oath, showing the kilowatt-hours of electricity delivered into a transmission system by each electrical generation facility during the preceding calendar month. Such reports shall show any further information that the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request, and the taxpayer must furnish, any information deemed necessary for correct computation of the tax levied herein. Such person shall compute and remit to the Oklahoma Tax Commission the required tax due for the preceding calendar month along with the reports herein required. If not filed on or before the 25th day of each month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

B. The tax levied hereunder on the transmission of electricity shall be due and payable to the Oklahoma Tax Commission on the first day of each month by any person liable to remit or pay any tax due hereunder. For the purpose of ascertaining the amount of tax payable, it shall be the duty of all persons subject to the electrical energy tax on transmission, on or before the 25th day of each month, to deliver to the Tax Commission upon forms prescribed and furnished by it, electrical energy tax reports signed, under oath, showing the kilowatt-hours of electricity transmitted on transmission facilities

owned, leased or operated by each person during the preceding calendar month. Such reports shall show any further information that the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request, and the person must furnish, any information deemed necessary for correct computation of the tax levied herein. Such person shall compute and remit to the Oklahoma Tax Commission the required tax due for the preceding calendar month along with the reports herein required. If not filed on or before the 25th day of each month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

C. The tax levied hereunder on the distribution of electricity shall be due and payable to the Oklahoma Tax Commission on the first day of each month except as herein provided by any person liable to remit or pay any tax due under this article. For the purpose of ascertaining the amount of the tax payable, it shall be the duty of all taxpayers, on or before the 25th day of each month, to deliver to the Tax Commission upon forms prescribed and furnished by it, electrical energy tax reports signed, under oath, showing the kilowatt-hours distributed within this state to a retail consumer during the preceding calendar month. Such reports shall show any further information that the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request, and the taxpayer must furnish, any information deemed necessary for correct computation of the tax levied herein. Such taxpayer shall compute and remit to the Oklahoma Tax Commission the required tax due for the preceding calendar month along with the remittance of the tax to accompany the reports herein required. If not filed on or before the 25th day of such month, the tax shall be

delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

D. It shall be the duty of every person required to make an electrical energy tax report under this article to keep and preserve suitable records of the sales of electrical energy in and outside of this state and other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records as will substantiate and prove the accuracy of such returns. All such records shall remain in Oklahoma and be preserved for a period of three (3) years unless the Oklahoma Tax Commission, in writing, has authorized their destruction, disposal or maintenance at a different location outside of the state and shall be open to examination at any time by the Oklahoma Tax Commission or by any of its duly authorized agents.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1457 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission may require every person subject to the provisions of the Oklahoma Electrical Energy Tax Code who is delinquent or becomes delinquent in the reporting or paying of any taxes levied under this article or penalties or interest thereon to furnish to the Commission a cash bond, bond from a surety company chartered or authorized to do business in this state, certificates of deposits, certificates of savings of U.S. Treasury bonds, an assignment of negotiable stocks or bonds or such other security as the Commission may deem necessary to secure payment of taxes under this article. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain

in effect until the surety or sureties are released and discharged by the Tax Commission. The Tax Commission shall fix the amount of such bond or other security required in each case after considering the tax liability expected to accrue, not to exceed three times the amount of the average quarterly tax liability. Any bond or other security furnished shall be such as will protect this state against failure of the taxpayer to pay the tax levied by this article.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1458 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. All taxes levied in this article which are delinquent together with any penalty and interest thereon may be collected in the same manner as any other taxes imposed by law in addition to any remedies or penalties set out in this article.

B. All delinquent taxes levied in this article or penalties or interest shall at all times constitute a lien upon the property of any person liable for the payment thereof, which shall be prior, superior and paramount as against the claims of unsecured creditors.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1459 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. No county of this state, no municipality of this state nor any other political subdivision of this state may levy an electric energy tax.

B. Generation, transmission or distribution of electricity by, through or from municipally owned electrical systems in this state, the Oklahoma Municipal Power Authority and the Grand River Dam Authority shall not be subject to the Oklahoma Electrical Energy Tax provided in this article.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1803.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Electricity distributed through or from an electric cooperative as defined in this act shall be subject to the Oklahoma Electrical Energy Tax.

B. Except as provided for in Section 437.25 of Title 18 of the Oklahoma Statutes and Section 1214 of Title 68 of the Oklahoma Statutes, sales at retail of all electricity generated, transmitted or distributed by an electric cooperative as defined in this act shall be subject to all appropriate state, county and municipal sales taxes as provided in Section 1350 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 36. AMENDATORY 68 O.S. 1991, Section 2601, is amended to read as follows:

Section 2601. A. The power is hereby vested in the governing body of any city or town in the State of Oklahoma to levy and assess, by ordinance, an annual ~~tax~~ fee upon the gross receipts from ~~residential and commercial~~ sales of ~~power, light, heat,~~ gas~~, electricity~~ or water in said city or town in an amount not exceeding two percent (2%) of the gross receipts from ~~residential and commercial~~ such sales, which ~~tax~~ fee shall be in lieu of any other franchise, license, occupation or excise tax, levied by such city or town.

B. The power is hereby vested in the governing body of any city or town in the State of Oklahoma which owns or operates a municipal electric system and does not opt into the provisions of the Electric Restructuring Act of 1997, as amended, to levy and assess, by ordinance, an annual fee upon the gross receipts from sales of electricity in said city or town an amount not exceeding two percent (2%) of the gross receipts from such sales, which fee shall be in lieu of any other franchise, license, occupation or excise tax levied by such city or town.

C. The power is hereby vested in the governing body of any city or town in the State of Oklahoma not included in subsection B of this section to levy and assess, by ordinance, an annual fee upon

sales of electricity in said city which shall be in lieu of any franchise fee, license, or occupation tax levied by such city or town; provided, that:

1. In cities or towns where a franchise exists the fee shall not exceed the highest franchise fee established for such like service being provided by a franchisee of the city or town; and

2. In cities or towns which own or operate a municipal electric system and where no franchise has been granted the fee may be fixed by the governing body of such city or town, in an amount not to exceed the highest franchise fee being collected for like services by any city or town in the State of Oklahoma having a population in excess of ten thousand (10,000) persons.

D. Provided, in addition to the Oklahoma Electrical Energy Tax which is to be collected by any municipally owned electrical system or the Grand River Dam Authority, where either opts to be subject to the Electric Restructuring Act of 1997, as amended, any such entity so opting shall also assess and collect from its consumers a franchise fee in the same amount and percentage as is being assessed against rural electric cooperatives and/or privately or publicly owned electrical suppliers competing in the same retail market as the municipally owned electrical operating system or the Grand River Dam Authority.

SECTION 37. AMENDATORY 68 O.S. 1991, Section 2602, is amended to read as follows:

Section 2602. The ~~tax~~ fee authorized to be levied under Section ~~1,~~ 2601 of this ~~act,~~ title shall, when levied, apply to all persons, firms, associations ~~or~~, corporations, municipalities, or public trusts thereof or the Grand River Dam Authority engaged in the business of furnishing power, light, heat, gas, electricity or water in any city or town, except it shall not apply to any person, firm, association or corporation operating under a valid franchise from said city or town.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2650 of Title 68, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as the "Oklahoma Electrical Energy Excise Tax Code".

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2651 of Title 68, unless there is created a duplication in numbering, reads as follows:

It is hereby declared the intent of the Legislature that this article shall be construed as levying an electrical energy excise tax upon the retail sale of electrical energy in those municipalities owning or operating their own electrical system who have opted into the competitive electrical energy market pursuant to the provisions of the Electric Restructuring Act of 1997, as amended. It is further declared that it is the intent of the Legislature that this article shall be construed as levying a tax upon the retail sales of electrical energy by the Oklahoma Municipal Power Authority or the Grand River Dam Authority, where either entity has opted into the competitive electrical energy market pursuant to the provisions of the Electric Restructuring Act of 1997, as amended. This electrical energy excise tax, however, shall not be construed to repeal or replace the provisions of the Oklahoma Sales Tax Code levying a sales tax upon the sale of electricity in the State of Oklahoma.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2652 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby levied upon all retail sales of electrical energy by a municipally owned electrical system, the Oklahoma Municipal Power Authority and the Grand River Dam Authority, their successors and assigns who have opted into the competitive electrical energy market pursuant to the provisions of the Electric Restructuring Act of

1997, as amended, an electrical energy excise tax of 1.8 mills per kilowatt-hour of electrical energy consumed in this state. This excise tax shall be in addition to any other taxes or fees authorized to be levied by the state or any political subdivision thereof. Any governmental electrical system entity opting in under the provisions of the Electric Restructuring Act of 1997, will collect the electrical energy excise tax from its retail consumers and may either deposit the tax in the entity's general revenue fund as directed by the entity's governing body, or such entity may contract with the Oklahoma Tax Commission to collect the tax which shall be remitted back to the respective collecting agency or municipality.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2653 of Title 68, unless there is created a duplication in numbering, reads as follows:

This article shall not apply to any persons or entities required to remit electrical energy taxes under the provisions of Sections 25 through 34 of this act.

SECTION 42. AMENDATORY 68 O.S. 1991, Section 2805, is amended to read as follows:

Section 2805. The following fees or taxes levied by the provisions of the Oklahoma Statutes shall be in lieu of ad valorem tax, whether in lieu of real property tax, personal property tax, or both as provided by law:

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;

2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;

3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;

4. The registration and license fees imposed upon vessels and motors pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of Title 63 of the Oklahoma Statutes;

5. The taxes levied upon the gross production of substances pursuant to Section 1001 of this title;

6. The taxes levied upon the gross production of substances pursuant to Section 1020 of this title;

7. The tax imposed upon ~~gross receipts pursuant to Section 1803~~ the generation, transmission or distribution of electrical energy pursuant to Sections 25 through 34 of this ~~title~~ act;

8. The tax imposed upon certain textile products pursuant to Section 2001 of this title;

9. The tax imposed upon certain freight cars pursuant to Section 2202 of this title;

10. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment pursuant to Sections ~~1~~ 5401 through ~~4~~ 5404 of this ~~act~~ title;

11. The tax imposed upon inventories of new vehicles and certain vessels pursuant to Section 5301 of this title; and

12. Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation.

SECTION 43. AMENDATORY 68 O.S. 1991, Section 2808, as last amended by Section 1, Chapter 337, O.S.L. 1997 (68 O.S. Supp. 1999, Section 2808), is amended to read as follows:

Section 2808. A. As used in the Ad Valorem Tax Code:

1. "Public service corporation" means all transportation companies, transmission companies, all gas~~, electric, light, heat and power~~ companies ~~and~~, all waterworks and water power companies, and all persons authorized to exercise the right of eminent domain or to use or occupy any right-of-way, street, alley, or public

highway, along, over or under the same in a manner not permitted to the general public;

2. "Transportation company" means any company, corporation, trustee, receiver, or any other person owning, leasing or operating for hire, a street railway, canal, steamboat line, and also any sleeping car company, parlor car company and express company, and any other company, trustee, or person in any way engaged in such business as a common carrier. As used in the Ad Valorem Tax Code, the term "transportation company" shall not include any railroad or any air carrier. However, all railroad and air carrier property shall continue to be valued and assessed by the State Board of Equalization for purposes of ad valorem taxation;

3. "Transmission company" means any company, corporation, trustee, receiver, or other person owning, leasing or operating for hire any telegraph or telephone line or radio broadcasting system; and

4. "Person" means individuals, partnerships, associations, and corporations in the singular as well as plural number.

B. As used in the Ad Valorem Tax Code, public service corporations, transportation companies and transmission companies shall not be construed to include electrical generating companies, electrical distribution companies, electrical transmission companies or electric cooperatives and any other real or personal property owned by such entities used directly or indirectly in the production, generation, transmission or distribution of electric energy.

C. As used in the Ad Valorem Tax Code, "transmission company" and "public service corporation" shall not be construed to include cable television companies.

~~C.~~ D. Any real or personal property used by any company, corporation, trustee, receiver, or other person owning, leasing, or operating for hire any pipeline or oil or gas gathering system which was assessed by the State Board of Equalization after January 1,

1997, shall continue to be assessed by the State Board of Equalization through ad valorem tax year 1998.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 190.11 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that a retail electric energy supplier or aggregator or generator of electricity using the electric distribution services of an electric distribution company which holds a municipal franchise shall not, on and after July 1, 2002, be deemed to use the streets or other public ways of a municipal corporation to maintain or operate its business and shall not be required to obtain a municipal franchise.

B. On and after September 1, 2000, any municipal corporation which grants, extends or renews a franchise or imposes a permit, franchise or license requirement for use of its streets or other public ways shall cause an electric utility or electric distribution company to pay a fee based on the kilowatt-hours delivered by the electric utility or electric distribution company to locations within the municipal corporation's boundaries.

C. Any franchise fee paid by an electric utility or electric distribution company shall be recovered as an operating expense from the consumers served by the electric utility or electric distribution company.

SECTION 45. REPEALER 68 O.S. 1991, Sections 1802 and 1803, are hereby repealed.

SECTION 46. This act shall become effective July 1, 2000.

SECTION 47. 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 17th day of April, 2000.

_____
Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 2000.

_____
President of the Senate