

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 220

By: Easley

COMMITTEE SUBSTITUTE

[Electric industry restructuring - effective date -
emergency]

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

Chapter 1

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 701 of Title 17, unless there is created a duplication in numbering, reads as follows:

Chapter 1 of this title shall be known and may be cited as the "Oklahoma Electric Restructuring Implementation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 702 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. 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 sale of electric energy. The purposes and goals of the Oklahoma Electric Restructuring Implementation Act are to provide for the implementation, administration, and management of electric restructuring that will:

1. Allow direct access by retail consumers to the competitive market for the generation of electricity while maintaining the reliability of the electric system in this state;

2. Create a competitive and diverse retail electric market that should result in lower electricity prices for as many retail

consumers as possible, help Oklahoma industry to be more competitive, create more jobs in this state, create new and expanded business opportunities, encourage the development of increased and enhanced electric services and electric energy alternatives and help lower the cost of government by reducing the amount and type of regulation now paid for by taxpayers;

3. Revise monopoly utility regulation that has been used as a substitute for competition in the supply of electricity, encourage the development of a competitive electricity industry through the unbundling of prices and services and separation of generation services from transmission and distribution services and provide for the introduction of consumer choice retail electric energy suppliers that will result in market forces rather than regulation determining the cost and quality of electricity for all retail consumers;

4. Authorize restructuring of the electric utility industry to provide greater competition through nondiscriminatory access to transmission and distribution systems and to avoid wasteful duplication of facilities to ensure that direct access by retail consumers to the competitive market for generation be implemented in this state no later than July 1, 2002, ensure more efficient regulation, and establish mechanisms in this state to aggressively pursue restructuring and increased consumer choice in order to provide electric generation service at the lowest and most competitive prices;

5. Enable retail electric energy suppliers to engage in fair and equitable competition; and

6. Ensure that proper levels of reliability and service are maintained in a restructured electric service industry.

B. The following statewide standards and the provisions of the Oklahoma Electric Code shall govern and control the administration, management, direction and execution of electric restructuring in this state and the orderly implementation of the Code:

1. Ensure continuance of reliable electric service to all retail consumers in the state, including:

- a. maintenance of electric distribution facilities that adhere to established industry standards and practices for quality and reliability, including standards of the National Electric Safety Code, with concern for local neighborhoods and geographic areas, including low income neighborhoods or regions, rural areas, and communities with a population of less than two thousand five hundred (2,500) persons,
- b. inspection, repair and replacement criteria of electric distribution facilities, including but not limited to installation of new and improved facilities, and
- c. uniform interconnection criteria;

2. Allow all retail consumers to choose among electric generation suppliers in a competitive generation market and receive that electricity through direct access to electric distribution facilities in a nondiscriminatory manner, including:

- a. programs to prevent unreasonable sales practices, market deficiencies and trade practices that are unfair, false, misleading or deceptive,
- b. standard, uniform and consistent interconnection criteria for generators, electric transmitters, and electric distributors to encourage a balanced energy supply from traditional, distributed, and renewable energy technology sources,
- c. compliance with operational criteria of an independent system operator or regional transmission organization designed to operate the electric transmission system pursuant to federal and state laws and rules,

- d. rates for electric distribution services that are nondiscriminatory, comparable, and nonpreferential to all retail consumers;

3. Require the unbundling of electric services and rates to functionally separate the facilities and charges of existing generation, electric transmission and electric distribution based on cost causation, provided, however, that no divestiture of existing generation, electric transmission or electric distribution assets shall be required but voluntary divestiture of those assets will be permitted;

4. Ensure protection of the retail electric consumer by development of appropriate safeguards and policies that educate, secure and enhance understanding of restructuring and its benefits, including but not limited to:

- a. a code of conduct for affiliate transactions,
- b. licensing or registration of entities that are involved in providing electricity to retail consumers including but not limited to generators, electric transmission and electric distribution providers, retail electric energy suppliers, and aggregators,
- c. billing criteria that separates and itemizes prices for generation, electric transmission and electric distribution and related services on the bill of a retail consumer,
- d. minimum service requirements that include:
 - (1) contractual rights, including the right to rescind residential or small commercial contracts to change electric generation suppliers within a reasonable period without penalty, and
 - (2) disconnection and service termination, including the right to change electric generation suppliers or terminate service,

- e. appropriate complaint, dispute resolution and enforcement procedures;

5. Encourage the maintenance of current environmental requirements for existing electric facilities, adapt existing facilities used in electric restructuring to ensure compliance with federal and state environmental protection laws, rules and regulations and encourage the development of new electric facilities that utilize renewable energy technologies; and

6. Establish a tax mechanism that will ensure collection and distribution of tax revenue to appropriate units of government.

C. Within one hundred eighty (180) days after final adoption of statewide standards and rules to implement the provisions of the Oklahoma Electric Code by the Corporation Commission, each jurisdictional entity is charged with the duty of promulgating rules that implement such standards and rules to implement the provisions of the Oklahoma Electric Code. Each jurisdictional entity may request the assistance of any Advisory Committee in accomplishing the provisions of this subsection. A copy of all rules promulgated pursuant to this section shall be deposited with the Consumer Services and Protection Division of the Office of the Attorney General. Any change, revision, modification or revocation of any rule promulgated pursuant to this subsection shall be filed with the Consumer Services and Protection Division upon final action by the jurisdictional entity.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 703 of Title 17, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Electric Restructuring Implementation Act:

1. "Board of Directors" means the Boards of Directors of the Grand River Dam Authority and the Oklahoma Municipal Power Authority;

2. "Board of trustees" means the boards of trustees of rural electric cooperatives created pursuant to the provisions of Section 437 et seq. of Title 18 of the Oklahoma Statutes;

3. "Commission" means the Corporation Commission;

4. "Committee" means the advisory committees created pursuant to this act;

5. "Electric Cooperative" means a not-for-profit electric entity that is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or is a not-for-profit successor of such entity;

6. "Grand River Dam Authority" means the conservation and reclamation district created pursuant to Sections 861 et seq. of Title 82 of the Oklahoma Statutes;

7. "Jurisdictional entity" means the body authorized to implement, administer, manage, and oversee the electric restructuring activities of electric providers within its jurisdiction. Jurisdictional entity shall include:

- a. the Commission,
- b. board of trustees,
- c. Board of Directors, and
- d. A municipal governing body or governing body of a beneficial trust of a municipality owning and operating a municipal electric system that is participating in electric restructuring;

8. "Joint jurisdictional entity" means a body that shall operate as a single jurisdictional entity that has been created by two or more boards of trustees or two or more municipal governing bodies or beneficial trusts thereof that are participating in electric restructuring to provide a single body for implementation, administration, management and oversight of electric restructuring

of the electric cooperatives or municipal governing bodies or beneficial trusts thereof that have agreed to its creation;

9. "Municipality" and "municipal governing body or governing body of beneficial trust thereof that is participating in electric restructuring" means a city or town and its governing body that has been authorized by the vote of a majority of the registered voters of the municipality to implement electric restructuring;

10. "Oklahoma Municipal Power Authority" means the power authority created pursuant to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes;

11. "Statewide standards" includes the principles, policies, goals and guidelines provided for in this act that shall apply to all jurisdictional entities, retail consumers, providers and participants subject to the provisions of this act and the Oklahoma Electric Code.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 704 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Each jurisdictional entity shall:

1. Be responsible for fully implementing and enforcing the laws and rules promulgated to accomplish electric restructuring in this state;

2. Implement and enforce the statewide standards established by this act and the rules promulgated to execute those standards;

3. Facilitate cooperation across jurisdictional lines with other jurisdictional entities to resolve wholesale and retail electric problems;

4. Have the authority and responsibility to engage in information and education dissemination activities to enhance the understanding of retail electric consumers in this state;

5. Participate in hearings conducted by the Corporation Commission for the consideration, promulgation or amendment of

statewide standards and rules to implement statutes and shall have the opportunity to present oral and written comments to the members of the Commission or any advisory committee created to assist in the promulgation of standards and rules relating to restructuring of the electric industry in this state.

B. A joint jurisdictional entity may be created by two or more boards of trustees or by two or more municipalities by:

1. A majority vote of the members of each board of trustees to participate in a joint jurisdictional entity. The joint jurisdictional entity created by the actions of two or more boards of trustees shall have all the powers, authority, and responsibilities of any jurisdictional entity created pursuant to the provisions of this act; and

2. When two or more municipalities desire to create a joint jurisdictional entity, each municipality must adopt an ordinance to participate in the joint jurisdictional entity. The joint jurisdictional entity created by the actions of two or more municipalities shall have all the powers, authority and responsibilities of any jurisdictional entity created pursuant to the provisions of this act.

C. A board of trustees may, by a majority vote of the members of the board of trustees, adopt a resolution to select the Commission to act as the jurisdictional entity for the electric cooperative. The Commission shall exercise all the powers, authority and responsibilities of a jurisdictional entity for the electric cooperative that made such an election pursuant to the provisions of this section.

D. Copies of any resolutions or ordinances adopted pursuant to this section shall be filed with the Consumer Services and Protection Division of the Office of the Attorney General.

Chapter 2

ARTICLE I.

Part 1. Short Title and Definitions

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 705 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Chapter 2 of this title shall be known and may be cited as the "Oklahoma Electric Code".

B. All statutes hereinafter enacted and codified in Chapter 2 of this title shall be considered and deemed part of the Oklahoma Electric Code.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 706 of Title 17, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Electric Code:

1. "Affiliate", "affiliate company" or "affiliated" means a subsidiary, person, or any company owned or controlled by an electric generator, electric transmitter, electric distributor, or holding company;

2. "Aggregator" means any person or entity that combines two or more retail consumers or acts as an agent or intermediary for, or on behalf of, two or more retail consumers, to arrange for the purchase of, but does not take title to, electric energy;

3. "Commission" means the Corporation Commission;

4. "Consumer" or "retail consumer" means a person or entity purchasing or seeking to purchase retail electric energy for use other than resale;

5. "Distribution assets", "distribution system" or "distribution facility" means the poles, wires, transformers, and any other equipment, including fiber optic cable which is part of such poles, wires, transformers and any other equipment, designed and constructed to deliver electricity from electric transmitters to retail consumers;

6. "Electric distributor" means a person owning, controlling or operating retail electric distribution assets, including transmission assets used to provide electricity directly to a retail consumer;

7. "Electric transmitter" means a person owning, controlling or operating transmission assets subject to federal or jurisdictional entity regulation to provide transportation services of electric energy from a generator to an electric distributor or directly to a retail consumer;

8. "Generator" means a person owning, controlling, or operating generation assets that produce electric energy for sale to retail consumers and retail electric energy suppliers;

9. "Generation assets" or "generation facility" mean generation plants and generation-related assets, as classified by the Federal Energy Regulatory Commission's Uniform System of Accounts, the Rural Utility Services approved accounting system, using generally accepted accounting principles or accounting systems used by the Oklahoma Municipal Power Authority, the Grand River Dam Authority and municipalities or beneficial trusts thereof that classifies generation plant and generation-related assets or a succeeding accounting system;

10. "Municipal electric system" means an electric system owned or operated by a municipality, or beneficial trust thereof, that may generate, transmit, and distribute electricity for retail sale to consumers;

11. "Renewable energy technology" means electric generating facilities that utilize solar photovoltaic energy, solar thermal energy, wind power, hydro power, geothermal energy, landfill and mine-based methane gas, energy from waste and sustainable biomass energy as the energy source for the manufacturing of electricity;

12. "Retail electric energy" means electric energy sold for consumption by a retail consumer;

13. "Retail electric energy supplier" means any entity that sells or otherwise provides electricity to a retail electric consumer;

14. "Transmission assets", "transmission line" or "transmission facility" means the poles, wires and other facilities, including any fiber optic cable which is a part of such poles, wires and other facilities, designed and constructed to transport bulk electricity.

Part 2

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 707 of Title 17, unless there is created a duplication in numbering, reads as follows:

The Corporation Commission is specifically charged with promulgating rules creating statewide standards and implementing statutes relating to electric restructuring in this state. Such rules shall establish the policies, procedures and directives related to the duties and responsibilities of each jurisdictional entity for implementing the Oklahoma Electric Restructuring Implementation Act and the Oklahoma Electric Code. Except as provided in this subsection, statewide standards and statutes implementing electric restructuring within the jurisdiction of an Advisory Committee as provided for in this act shall be promulgated with the advice of such Committee. Proposed permanent rules for statewide standards and proposed permanent rules to implement statutes for electric restructuring within the jurisdiction of a Committee shall not be considered by the Commission until receipt of the appropriate Committee's written recommendation of such proposed rules. The Staff of the Commission shall not recommend to the Commission permanent rules or changes to proposed permanent rules being promulgated that have not previously been submitted to and approved by the appropriate Committee. The Commission shall either accept or reject the proposed permanent rules for statewide standards or proposed permanent rules to implement statutes for

electric restructuring. If a proposed rule for permanent statewide standards or a proposed permanent rule to implement a statute for electric restructuring is rejected by the Commission, the Commission shall immediately return the rejected rule to the Advisory Committee responsible for its development with the reasons for the Commission's rejection and recommendations for suggested changes. The Commission may, however, promulgate emergency rules for statewide standards and emergency rules to implement statutes for electric restructuring without the advice of the appropriate Committee when the time constraints of the emergency, as determined by the Commission, do not permit the timely development of recommendations by the Committee. All actions of the Committees with regard to proposed permanent rules for statewide standards and proposed permanent rules to implement statutes for electric restructuring shall be deemed actions of the Commission for the purposes of complying with the Administrative Procedures Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 708 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. There are hereby created in accordance with the provisions of the Oklahoma Sunset Law:

1. The Regulatory Advisory Committee;
2. The Consumer Services and Protection Advisory Committee;
3. The Market Structure Advisory Committee; and
4. The Operations and Environment Advisory Committee.

B. 1. Each Committee created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that

only one term expires each calendar year; subsequent appointments shall be for three-year terms. Members of the Advisory Committees shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointment. Five members shall constitute a quorum; and

2. Each Committee shall elect a chair and vice-chair from among its members. Each Committee shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three members.

C. 1. All members of the Regulatory Advisory Committee shall be knowledgeable of electric financial accounting and rate processes. The Committee shall be composed as follows:

a. the Governor shall appoint three members as follows:

(1) one member representing a statewide nonprofit social service agency involved in assisting retail consumers,

(2) one member representing the general public, and

(3) one member representing the field of financial accounting,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing a retail industrial consumer located in the state,

(2) one member representing the investor-owned electric industry, and

(3) one member representing an institution of higher learning of university status who is a faculty member and experienced in matters of accounting, finance or business management.

c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing electric cooperatives located in this state,
- (2) one member representing a competitive electric services provider operating in this state, and
- (3) one member representing a political subdivision of the state who shall be an elected or appointed official of the local governmental body of a city or town;

2. The jurisdictional areas of the Regulatory Advisory Committee shall include the pertinent statewide standards as designated by the Corporation Commission and Sections 11, 12, 21, 28 and 31 of this act, any other regulatory management and related issues and such other areas as may be designated by the Commission.

D. 1. All members of the Consumer Services and Protection Advisory Committee shall be knowledgeable of electric issues affecting the retail consumer. The Committee shall be composed as follows:

a. the Governor shall appoint three members as follows:

- (1) one member representing the general public,
- (2) one member representing a retail industrial consumer located in this state, and
- (3) one member representing the investor-owned electric industry located in this state,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing electric cooperatives located in this state,
- (2) one member representing a nonprofit social service organization in this state, and

- (3) one member representing a competitive electric services provider operating in this state,
- c. the Speaker of the House of Representatives shall appoint three members as follows:
 - (1) one member representing the general public,
 - (2) one member representing a political subdivision of the state who shall be an elected or appointed official of the local governmental body of a city or town,
 - (3) one member representing a statewide organization knowledgeable in retail consumer and consumer protection issues in this state.

2. The jurisdictional areas of the Consumer Services and Protection Advisory Committee shall include the pertinent statewide standards designated by the Commission and Sections 20, 21, 26, 30 and 31 of this act, any other consumer related issues and such other areas as may be designated by the Commission.

E. 1. All members of the Market Structure Advisory Committee shall be knowledgeable of competitive electric issues impacting the retail consumer and the electric utility industry. The Committee shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing a competitive electric services provider operating in this state,
 - (2) one member representing electric cooperatives located in this state, and
 - (3) one member representing a political subdivision who shall be an elected or appointed official of the local governmental body of a city or town;
- b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing a statewide nonprofit social service agency involved in assisting retail consumers in this state,
 - (2) one member representing the general public, and
 - (3) one member representing an institution of higher learning of university status who shall be a faculty member and experienced in matters related to marketing, antitrust and competitive issues;
- c. the Speaker of the House of Representatives shall appoint three members as follows:
- (1) one member representing the field of consumer dispute resolution,
 - (2) one member representing a retail industrial consumer located in this state, and
 - (3) one member representing an investor-owned utility located in this state;

2. The jurisdictional areas of the Market Structure Advisory Committee shall include the pertinent statewide standards as designated by the Commission and Sections 13, 14, 15, 16, 17, 18, 19, 24 and 34 of this act, any other licensing, management and related issues and such other areas as may be designated by the Commission.

F. 1. All members of the Operations and Environment Advisory Committee shall be knowledgeable of electric and environmental issues relating to the management and operations of electric systems. The Committee shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing a statewide environmental organization in this state,
 - (2) one member representing an industrial consumer in this state, and

(3) one member representing the field of electrical engineering who shall possess experience in power plant and environmental issues related to operations of electric systems;

b. the President Pro Tempore shall appoint three members as follows:

(1) one member representing a political subdivision who shall be an elected or appointed official of the local governmental body of a city or town,

(2) one member representing an electric cooperative located in this state, and

(3) one member representing the engineering profession who shall be a professional engineer employed and experienced in matters related to the operations of electrical systems;

c. the Speaker of the House of Representatives shall appoint three members as follows:

(1) one member representing an investor owned utility located in this state,

(2) one member representing the general public, and

(3) one member representing a competitive electric services provider operating in this state;

2. The jurisdictional areas of the Operations and Environment Advisory Committee shall include the pertinent statewide standards as designated by the Commission and Sections 27, 29 and 32 of this act, any other operations, environmental management, and related issues and such other areas as may be designated by the Commission.

G. In addition to other powers and duties assigned to each Committee pursuant to this Code, each Committee shall, within its jurisdictional area:

1. Have authority to recommend to the Corporation Commission proposed permanent rules;

2. Before recommending any proposed permanent rules to the Commission, follow all applicable requirements of the Administrative Procedures Act, including but not limited to giving public notice, offering an opportunity for public comment, and conducting a public rulemaking hearing when required;

3. Have the authority to make written recommendations to the Commission that have been approved by a majority of the membership of the Committee;

4. Have the authority to provide a public forum for the discussion of any issue it considers relevant to its area of jurisdiction, and to:

- a. pass nonbinding resolutions expressing the views of the Committee, and
- b. make recommendations to the Commission and the Office of the Attorney General Consumer Services and Protection Division concerning the need and the desirability of conducting public educational meetings, workshops and seminars; and

5. Cooperate with each Advisory Committee, the public and the Commission in order to coordinate the rules within their respective jurisdictional areas to achieve maximum efficiency and effectiveness in furthering the objectives of electric restructuring.

H. Members of the Committees shall serve without compensation but may be reimbursed, by their appointing authorities, for expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Committees are authorized to utilize the facilities of the Commission and obtain staffing, administrative assistance and legal assistance from the Commission, as necessary.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 709 of Title 17, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the Office of the Attorney General, the Electric Consumer Services and Protection Division. The Office of the Attorney General shall, after completion of a process to award to the lowest responsible bidder, by free and open competitive bidding after the issuance of a request for proposal and solicitation for sealed bids, issue a contract for assistance in the operation of this division. The Consumer Services and Protection Division shall:

1. Establish and maintain an information repository, reference and referral system designed to assist retail consumers in understanding the rules and other information related to complying and benefiting from the restructuring of the electric industry in this state;

2. Provide a single point of contact for Oklahoma retail consumers to initiate complaints to resolve all electric service related issues which shall include a toll free telephone information and complaint service, an internet information and complaint service and mechanisms for the dissemination of printed materials to Oklahoma retail consumers in response to consumer inquiries;

3. Maintain a referral procedure for questions, inquiries, complaints and other communications to licensees, registrants and jurisdictional entities that ensures the timely resolution of such referrals by a jurisdictional entity, licensee or registrant in this state;

4. Maintain copies of all current provisions of the Oklahoma Electric Restructuring Implementation Act, the Oklahoma Electric Code, permanent rules for statewide standards, permanent rules promulgated by the Commission to implement the statutes, and the rules of all jurisdictional entities promulgated pursuant to the provisions of this act;

5. Periodically provide copies of current provisions of the Oklahoma Electric Restructuring Implementation Act, the Oklahoma

Electric Code, statewide standards promulgated by the Commission and all rules to implement statewide standards and the provisions of the Code that have been adopted by each jurisdictional entity to the county clerk of each county in this state where the jurisdictional entity oversees, manages, operates or controls electric entities in this state.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710 of Title 17, unless there is created a duplication in numbering, reads as follows:

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

B. The assessment directed and authorized by this section shall be borne by the electric utility or electric distribution company in an amount not to exceed twenty-five cents (\$.25) per month for every retail consumer served by an electric utility or electric distribution company doing business in this state.

C. 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.

D. 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 Electric Consumer Services and Protection Revolving Fund created in subsection E of this section.

E. Any assessment collected by the Commission pursuant to this section shall be deposited to the Electric Consumer Services and Protection Revolving Fund hereby created. 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 Office of the Attorney General to pay the costs, direct and indirect, incurred to operate the Consumer Services and Protection Division and to educate consumers regarding retail choice. Expenditures from the 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.

F. The Oklahoma Legislature shall establish budgetary limits for the Office of the Attorney General 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.

G. 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.

H. The Office of the Attorney General shall annually submit by January 31 of each year a report setting forth the action taken and detailing the expenditures made pursuant to this subsection to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Office of the Governor.

ARTICLE II.

Part 1-Unbundling

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 711 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Not later than July 1, 2002, all entities providing retail electric service in this state on the date of enactment of this act, including, but not limited to, investor-owned utilities, electric cooperative municipalities participating in electric restructuring pursuant to the provision of this act, and the Grand River Dam Authority, shall have completed, pursuant to statewide standards and rules to implement statutes promulgated by the Corporation Commission and implemented by the appropriate jurisdictional entity, the functional separation of:

1. Generation facilities, operations, services and rates;
2. Transmission facilities, operations, services and rates; and
3. Distribution and customer services facilities, operations services, and rates.

Such functional separation shall provide for an orderly division of the entity's assets, utilizing cost-based allocation principles, that will ensure and maintain the reliability of the electric system, continue compliance with all federal and state environmental laws and regulations and encourage the sale and delivery of electricity in the State of Oklahoma that does not unduly burden Oklahoma electric utility investors, Oklahoma retail consumers or any political subdivision of this state.

B. Any facilities, operation, or service assigned, sold, or otherwise transferred for purposes of accomplishing separation of generation services shall be valued for all ratemaking and other purposes at the amounts assigned to that facility operation or service in its books and records in accordance with generally accepted accounting principles on the date of the sale, assignment or transfer.

C. An entity may accomplish the separation required by subsection A of this section through the creation of divisions, departments, affiliate companies, nonaffiliate companies, or through the sale of assets to a third party; provided, however, nothing in

this section shall require an entity to divest itself of any generation, transmission, or distribution assets.

D. Not later than March 1, 2001, the Commission shall, with the advice of the Regulatory Advisory Committee, promulgate statewide rules that establish uniform policies and guidelines to functionally unbundle electric utility assets and rates. Such rules shall ensure that:

1. Cost shifting or cross subsidization shall not be permitted between functionally separate divisions, departments, affiliate companies, or nonaffiliated companies;

2. Anticompetitive behavior or self-dealing shall not occur between functionally separate divisions, departments, affiliate companies, or nonaffiliated companies; and

3. Discriminatory behavior toward nonaffiliated companies shall not occur.

E. Each entity providing electric service to retail consumers in this state shall file a plan for functional separation required by this section that must be approved by the appropriate jurisdictional entity within ninety (90) days following the filing of such plan. The jurisdictional entity shall issue, after proper notice and hearing, if a request for hearing has been made, an order authoring the functional separation of the assets of the entity providing electric service that shall become effective upon implementation of restructuring on July 1, 2002. The order authorizing the approved plan for functional separation shall be filed with the Consumer Services and Protection Division of the Office of the Attorney General and shall also be available for public review at the offices of each entity.

F. In the promulgation of such rules for the functional unbundling of assets and rates, the following guidelines shall be utilized:

1. The accounting standards of the entity prescribed by the Federal Energy Regulatory Commission (FERC), the U.S. Department of Agriculture, Rural Utilities Service (RUS), generally accepted accounting principles, including but not limited to the criteria for applicability of Statement of Financial Accounting Standards No. 71, "Accounting for the Effect of Certain Types of Regulation", or any other generally accepted system of accounts shall be used in the development of the appropriate allocation of costs;

2. All accounts, books, and records of the entity shall be analyzed to determine cost causation and those costs shall be directly assigned to the appropriate functions where the information can be readily determined. Allocation of all remaining common costs that cannot be directly assigned to the appropriate function should be charged by the use of functionalization methodology developed to accurately reflect cost;

3. Local distribution properties, including transmission assets that are not subject to federal regulation, used to provide electricity directly to retail consumers should:

- a. normally be located in close proximity to retail consumers,
- b. be primarily radial in character,
- c. accept power that flows into the system and rarely, if ever, flows out,
- d. accept power that is not re-consigned or transported on to some other market,
- e. accept power that is consumed in a comparatively restricted geographic area,
- f. have meters based at the transmission/local distribution interface to measure flows into the local distribution system, and
- g. be of reduced voltage.

The allocation procedures utilized in the functional unbundling of each entity shall also be utilized by the jurisdictional entity to develop rates and charges for regulated services of each entity.

G. Each electric distributor's rates, charges and conditions for providing electric transmission, electric distribution, and other related services to retail consumers shall be determined by each jurisdictional entity. An application to determine such rates, charges and conditions for providing such services shall be filed with the jurisdictional entity no later than June 30, 2001. Such application shall:

1. Include a new cost of service study based on the unbundled assets and costs of distribution and related services; provided, however, that such distribution costs shall include any transmission costs related to transmission services to provide electricity directly to retail consumers and the costs of any federally mandated co-generation contracts;

2. Not include directly or indirectly any costs, revenues, or losses associated with the operation of generation facilities, retail electric energy suppliers, or any other affiliate of the electric distributor;

3. Encourage the design of rates, charges and conditions that provide retail consumers and electric distributors the opportunity to maximize competitive marketing and ratemaking applications; and

4. Include any other costs authorized by the provisions of this act.

H. On or before May 1, 2002, each jurisdictional entity shall, after notice and hearing, if a request for hearing has been made, issue an order establishing the rates, charges and conditions for providing electric transmission, electric distribution, and other related services to retail consumers. Each jurisdictional entity shall:

1. Conduct an audit of the cost of service study submitted by the electric distributor;

2. Ensure that rates, charges and conditions of providing such services are fair, just and reasonable and are based on the costs associated with provision of such services; and

3. Complete the review of an application for establishment of rates, charges and conditions of providing such services within one hundred twenty (120) days from the date such application to establish such rates, charges and condition of providing such services was filed with the jurisdictional entity; provided, however, if such order has been issued, the electric distributor shall implement such rates, charges, and conditions of providing such services as provisional rates, charges, and conditions of providing such services. If provisional rates, charges and conditions of providing such services are implemented, the jurisdictional entity may require the posting of an appropriate surety bond until such time as a final order on such application has been issued.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 712 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. All entities, their successors or assigns, providing electric service that have been subject to regulation by the Corporation Commission, electric cooperatives whose members have approved a proposition to deregulate and the Grand River Dam Authority, shall participate in electric restructuring pursuant to the provisions of this act.

B. A municipality owning its own electric generation, transmission or distribution assets shall become subject to the provisions of this act if, after a majority of the registered voters of the municipality, voting on the question of participating in electric restructuring at an election to be held for that purpose,

have authorized such participation. After such election, the municipal governing body shall function as the jurisdictional entity for the requirements of this act.

C. A municipality that is not participating in electric restructuring shall be prohibited from extending an electric transmission system or 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.

D. The Corporation Commission shall function as the jurisdictional entity for the requirements of this act for all investor-owned utilities, their successors or assigns, that provided electric service prior to the effective date of this act.

E. The board of trustees of each electric cooperative shall function as the jurisdictional entity for the requirements of this act for each electric cooperative, its successors or assigns, that provided electric service prior to the effective date of this act; provided, however, members of an electric cooperative may vote to participate in a joint jurisdictional entity or may vote to select the Corporation Commission to act as its jurisdictional entity pursuant to the provisions of Section 4 of this act.

F. The Board of Directors of the Grand River Dam Authority shall function as the jurisdictional entity for the requirements of this act.

Part 2-Licensing

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 713 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission shall, with the advice of the Market Structure Advisory Committee, promulgate rules to administer,

manage and facilitate the licensing of generators, electric transmitters, electric distributors, retail electric energy suppliers, marketers, brokers, and any other person engaged in the retail sale and delivery of electricity. Upon application and after notice and hearing, if a request for public hearing has been received, the Commission shall issue to every generator, electric transmitter, electric distributor, retail electric energy supplier, marketer, broker, or any other person engaged in the retail sale and delivery of electricity, a license to conduct business in this state.

B. Each applicant shall submit to the Commission a verified application that includes, but is not limited to, the following:

1. A description of the services or activities to be provided to retail consumers, the area where such services or activities are to be provided, and the facilities to be used to provide such services or activities;

2. Demonstration that the applicant possesses:

- a. the technical competence to perform the services or activities to be offered,
- b. the financial capability to provide safe, continuous and reliable services activities,
- c. the managerial ability to supply services activities in accordance with consumer contracts,
- d. the resources including, but not limited to, access to generation and generation reserves, necessary to satisfy the requirements of this act, and
- e. an office located within this state for the purpose of providing consumer services, accepting service of process, and making available in that office books and records sufficient to establish compliance with the requirements of this act;

3. Provide proof that the applicant is in compliance with all applicable federal and state laws required to provide the services or activities to be offered to retail consumers and that applicant will fully comply with all standards and rules required to provide such services or activities in this state; and

4. Provide any other information the Commission might require.

C. An application for a license required by this section shall be filed with the Commission at least ninety (90) days prior to offering any services or activities in this state. The Commission may reject the application if, after notice and opportunity for hearing, it finds that the application is deficient or that the applicant is not in compliance with the provisions of this act.

D. The Commission shall review an application for license within sixty (60) days of submission and grant or deny such license. Should the Commission determine that the application contains deficiencies, the applicant should be afforded the opportunity to provide additional information to satisfy such deficiencies. The Commission shall, at the end of the review period, subject to the posting of an appropriate surety bond, if necessary, grant or deny the application for license to conduct business in this state.

E. Should the Commission fail to grant or deny the application within the time provided in this section, the license shall be issued as a provisional license, subject to the posting of an appropriate surety bond, if necessary, until such time as the Commission has taken final action on the application.

F. The Commission may, after proper notice and hearing, suspend, revoke, or amend any license granted pursuant to this section if the licensee has significantly violated the provisions of this act or is substantially out of compliance with federal or state laws, rules and regulations.

G. The payment of a licensing fee, the amount to be determined by the Commission, for any license issued pursuant to this section

shall be remitted upon the issuance of the license. Renewal of the license shall be granted upon payment of such fee on or before January 1 of each year thereafter, until canceled, suspended or revoked. The Commission shall consider payment of the fee to be delinquent if payment has not been received within thirty (30) days of the date such payment is due. Unpaid fees shall be subject to the accrual of interest on the unpaid balance but in no case may the amount of interest assessed exceed the amount of the fee.

H. A license issued by the Commission pursuant to the provisions of this section is not assignable or transferable.

I. Each jurisdictional entity may require that recipients of licenses issued pursuant to this section register with the jurisdictional entity; provided, however, no fee for such registration may be levied by such jurisdictional entity.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 714 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In addition to the general requirements for licensing, a generator applying for licensing to generate electricity in this state shall provide the Corporation Commission the following:

1. The location of any facility or facilities used to generate electricity;
 2. A description of the type of services to be provided;
 3. Identification of all affiliate relationships with any other entities generating, transmitting, distributing, selling, marketing, aggregating, or providing any other service related to the wholesale or retail sale of electricity in this state;
 4. Copies of any information filed with the Federal Energy Regulatory Commission;
 5. Copies of all applicable federal and state environmental filings and permits that relate to the generation of electricity;
- and

6. Any other information required by the Commission.

B. A generator shall comply with all reliability requirements established by an independent system operator, regional transmission organization, or entity organized to ensure the reliability of the regional electrical network in which the power generator is generating electricity.

C. The information provided pursuant to this section shall be protected by the Commission to ensure the confidentiality of competitively sensitive information.

D. A generator shall not be subject to regulation of rates, tolls or charges by any jurisdictional entity in this state but shall remain subject to all other federal and state laws, rules, and regulations regarding the operations and provisions of its services.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 715 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In addition to the general requirements for licensing, an electric transmitter, transmitting electricity directly to retail consumers in this state, shall provide the Corporation Commission the following:

1. The location of any facility or facilities used to transmit electricity;

2. A description of the type of services to be provided;

3. Identification of all affiliate relationships with any other entities generating, transmitting, distributing, selling, marketing, aggregating, or providing any other service related to the wholesale or retail sale of electricity in this state;

4. Copies of any information filed with the Federal Energy Regulatory Commission;

5. Copies of membership documents demonstrating membership in a regional reliability council or an independent system

operator/regional transmission organization (ISO/RIO) that has been approved by the Federal Energy Regulatory Commission;

6. Copies of all applicable federal and state environmental filings and permits that relate to the transmission of electricity; and

7. Any other information required by the Commission.

B. Every electric transmitter that owns and controls transmission facilities in this state shall be a member of an approved transmission organization that may be classified as an independent system operator, regional transmission organization, or other entity organized to ensure the reliability of the regional electrical network. An approved transmission organization must be an entity approved by the Federal Energy Regulatory Commission.

C. The information provided pursuant to this section shall be protected by the Commission to ensure the confidentiality of competitively sensitive information.

D. An electric transmitter, to the extent not prohibited by federal law, shall remain subject to all applicable federal and state laws, rules and regulations regarding the provisions of its services to all retail consumers, including but not limited to the regulation by any appropriate jurisdictional entity of rates and charges for the availability and transportation of electricity and other associated electric transportation services.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 716 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In addition to the general requirements for licensing, an electric distributor distributing electricity to retail consumers in this state shall provide the Corporation Commission the following:

1. The location of any facility or facilities used to distribute electricity in this state;

2. A description of the type of services to be provided to retail consumers;

3. Identification of all affiliate relationships with any other entities generating, transmitting, distributing, selling, marketing, aggregating, or providing any other service related to the wholesale or retail sale of electricity in this state;

4. Copies of all municipal or county licenses or franchises utilized by the distributor in the provision of distribution services;

5. Copies of all applicable federal and state environmental filings and permits that relate to the distribution of electricity; and

6. Any other information required by the Commission.

B. An electric distributor shall comply with all reliability requirements established by an independent system operator, regional transmission organization, any jurisdictional entity or other entity organized to ensure the reliability of the electric distribution or regional electrical network in which the electric distributor is distributing electricity.

C. The information provided pursuant to this section shall be protected by the Commission to ensure the confidentiality of competitively sensitive information.

D. An electric distributor, to the extent not prohibited by federal law, shall remain subject to all federal and state laws and regulations regarding the provisions of its services to all retail consumers, including but not limited to the regulation by any jurisdictional entity of rates and charges for the availability and distribution of electricity, metering and billing services and other associated distribution services.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 717 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In addition to the general requirements for licensing, a retail electric energy supplier or any other person engaged in the retail sale of electricity in this state shall provide the Corporation Commission the following:

1. The locations of any facility or facilities located in this state used in the retail sale of electricity;

2. Identification of all affiliate relationships with any other entity generating, transmitting, distributing, selling, marketing, aggregating or providing any other service related to the retail sale of electricity in this state;

3. Copies of all licenses, franchises, contracts or any other agreements which have been issued pursuant to any federal or state law, county or local ordinance, rule, regulation or requirement; and

4. Any other information required by the Commission.

B. A retail electric energy supplier or any other person engaged in the retail sale of electricity in this state shall comply with all open access, interconnection and reliability requirements established by any jurisdictional entity, an independent system operator, regional transmission organization, or entity organized to ensure the safety and reliability of the electric network in which the retail electric energy supplier, marketer, broker or any other person engaged in the retail sale of electricity is selling electricity to retail consumers.

C. The information provided pursuant to this section shall be protected by the Commission to ensure the confidentiality of competitively sensitive information.

D. A retail electric energy supplier or any other person engaged in the retail sale of electricity, to the extent not prohibited by federal law, shall remain subject to all federal and state laws, rules and regulations regarding the provisions of its services to all retail consumers.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 718 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission shall, with the advice of the Market Structure Advisory Committee, promulgate rules to issue certificates of registration to aggregators. Upon application and after notice and hearing, if a request for public hearing has been received, the Commission shall issue a certificate of registration to an aggregator providing retail consumer aggregation services in this state.

B. Aggregation services shall consist of the joining of two or more retail consumers into a single purchasing unit to negotiate the purchase of electricity from retail electric energy suppliers. Aggregation services shall not include sale or ownership of the electricity to be provided to the purchasing unit and an aggregator shall not take title to electricity included in any aggregation transaction. Aggregation services do not include the joining of loads from an individual's own location or facilities.

C. An application for a certificate of registration required by this section shall be filed with the Commission at least ninety (90) days prior to offering any services or activities in this state. The Commission may reject the application if, after notice and opportunity for hearing, it finds that the application is deficient or that the applicant is not in compliance with the provisions of this act. The Commission shall have up to sixty (60) days to process applications for certificates of registration filed by aggregators.

D. The Commission shall review an application for a certificate of registration within sixty (60) days of submission and grant or deny such certificate of registration. Should the Commission determine that the application contains deficiencies, the applicant should be afforded the opportunity to provide additional information

to satisfy such deficiencies. The Commission shall, at the end of the review period, subject to the posting of an appropriate surety bond, if necessary, grant or deny the application for a certificate of registration to conduct business in this state.

E. Should the Commission fail to grant or deny the application within the time provided in this section, the certificate of registration shall be issued as a provisional certificate of registration, subject to the posting of an appropriate surety bond, if necessary, until such time as the Commission has taken final action on the application.

F. The Commission may, after proper notice and hearing, revoke or suspend a certificate of registration issued pursuant to this section.

G. The payment of a fee, the amount to be determined by the Commission, for a certificate of registration issued pursuant to this section shall be remitted upon the issuance of the certificate. Annual renewal of the certificate shall be granted upon payment of such fee on or before January 1 of each year, and thereafter, until canceled, suspended or revoked.

H. A certificate of registration issued by the Commission pursuant to this section is not assignable or transferable.

I. Each jurisdictional entity may require that recipients of certificates of registration issued pursuant to this section register with the jurisdictional entity; provided, however, no fee for such registration may be levied by such jurisdictional entity.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 719 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. In addition to the general requirements for registration as an aggregator in this state, a registered aggregator shall provide the Corporation Commission the following:

1. The location within this state of any facility or facilities used to perform aggregation or aggregation services for retail consumers who want to form a single purchasing unit to negotiate the purchase of electricity from retail electric energy suppliers, or any other person providing any other services related to the retail sale of electricity in this state;

2. Identification of all affiliate relationships with any other entities generating, transmitting, distributing, selling, marketing, aggregating, retail sale of electricity in this state;

3. Copies of any information filed and any licenses, permits, franchises, or other authorizations issued by any federal, state, county, or local unit of government in this state; and

4. Any other information required by the Commission.

B. An aggregator, to the extent not prohibited by federal law, shall comply with all consumer protection and reliability requirements established by federal and state laws, rules and regulations and by any jurisdictional entity where the aggregator is certified to perform aggregation services in this state.

C. The information provided pursuant to this section shall be protected by the Commission to ensure the confidentiality of competitively sensitive information.

Part 3. Consumer Services and Protection

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 720 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission, with the advice of the Consumer Services and Protection Advisory Committee, shall promulgate rules to develop and implement a complaint investigation, response and appeal process to facilitate the appropriate investigation, mitigation and resolution of all questions and complaints in a timely manner. Provided, that any final order determining consumer complaints issued by the Corporation Commission shall be appealable

to the Supreme Court and any justiciable matters relating to consumer complaints by boards of trustees, the Grand River Dam Authority, and municipalities participating in electric restructuring shall be adjudicated in the district courts of this state. Rules to implement such complaint investigation, response and appeal process shall also be promulgated by each jurisdictional entity. The rules of each jurisdictional entity shall be filed in the Consumer Services and Consumer Protection Division of the Office of the Attorney General.

B. Rules promulgated according to subsection A of this section governing the complaint investigation, response, and appeal process shall at a minimum provide:

1. A toll free telephone number to contact the jurisdictional entity; and

2. A written response to complainant and the Consumer Services and Consumer Protection Division stating the findings of the jurisdictional entity on the complaint and information available to the complainant providing further procedural alternatives.

C. 1. It shall be unlawful for any person to knowingly and willfully file a false complaint with a jurisdictional entity or to knowingly and willfully misrepresent material information to a jurisdictional entity relating to a complaint.

2. Any person filing such false complaint or misrepresenting such material information shall be deemed guilty of a misdemeanor and shall be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term of not more than thirty (30) days or by both such fine and imprisonment.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 721 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission, with the advice of the Regulatory Advisory Committee and the Consumer Services and Protection Advisory Committee, shall, to the extent not prohibited by federal law, promulgate rules and each jurisdictional entity shall adopt rules for consumer protection processes and procedures for electric generators, electric transmitters, electric distributors, retail electric energy suppliers, aggregators, or any other person engaged in the retail sale or delivery of electricity in this state. Rules shall include, but not be limited to:

1. Retail consumer contract provisions that disclose:
 - a. total price per kilowatt hour that includes:
 - (1) electricity price,
 - (2) transmission rate,
 - (3) distribution rate,
 - (4) fees, and
 - (5) taxes,
 - b. duration or term of the contract,
 - c. explicit language to identify the method of cancellation,
 - d. retail consumer authorization requirements, including but not limited to, oral or written authority to contract,
 - e. consumer services, consumer complaint, disconnection and service termination procedures, and
 - f. toll free telephone numbers for questions, complaints and information;

2. Nondiscriminatory service provisions that provide protection from any action to accept or reject a retail consumer based on race, color, national origin, age, gender, religion, source of income, receipt of public assistance or benefits, family status, sexual preference or geographic location;

3. Protection from preferential treatment based on any affiliation or owner relationship;

4. Connection, interconnection, disconnection and service termination provisions including new and expanded facility installation criteria;

5. Protection of the right of every retail consumer to connect to the distribution system;

6. Nondiscriminatory access to transmission and distribution systems for electricity generated by traditional energy sources and sources utilizing distributed technologies or renewable energy technologies;

7. Protection against retail consumer service disconnection in extreme weather or medical emergency;

8. Protection against retail consumer service disconnection for nonpayment of unrelated services or failure to pay an obligation to a retail electric energy supplier;

9. Clear and understandable procedures related to the switching of retail consumers from one electricity provider to another electricity provider only after express written authorization has been given by the retail consumer;

10. Consumer information provisions in written, electronic and oral formats that allow the retail consumer to make informed choices. Consumer information provisions shall include, but are not limited to:

a. clear and understandable bills that provide:

(1) itemized billing information,

(2) identification of all providers selected by the consumer,

(3) historical usage information, and

(4) payment information including, meter read date, methods of payment, due date, late payment charge criteria, customer inquiry toll free telephone

number and internet access information available for customer inquiry, and address of local offices,

- b. confidentiality of billing, usage, and payment records unless the retail consumer consents to their release; provided, however, that consumer billing information may be provided in the aggregate by customer class or geographic location,
- c. written individual notification at least sixty (60) days before any rate applicable to a retail consumer will be changed,
- d. information on low income and disadvantaged consumer assistance programs,
- e. information on the availability of renewable energy technology alternatives, distributed generation alternatives and any incentives associated with the provision of such services,
- f. minimum service requirements, service deposit requirements, and credit review criteria utilized to provide electricity or related services to the retail consumer;

B. All retail consumers shall have the right:

- 1. To choose which retail electric energy supplier shall provide the retail consumer's electric requirements;
- 2. To access a safe and reliable electric supply and electric system;
- 3. To an efficient system to resolve service complaints and billing disputes;
- 4. To protection from unfair, deceptive, fraudulent, and anticompetitive practices; and

5. To unbiased and accurate information that will allow for informed choices and protection from unauthorized access to or use of personal consumer information.

C. Nothing in this section shall be construed to limit the application of any other consumer protection or deceptive practices provisions of federal or state law.

SECTION 22. AMENDATORY 17 O.S. 1991, Section 1, as amended by Section 1, Chapter 48, O.S.L. 1998 (17 O.S. Supp. 1999, Section 1), is amended to read as follows:

Section 1. Any corporation, person or firm may be fined by the Corporation Commission, a sum not to exceed Five Hundred Dollars (\$500.00), as the Commission may deem proper, for the violation of any of its rules or requirements and each day's continuance of such violation, after due service upon such corporation, person or firm, of the order or requirement of the Commission shall be a separate offense. Should the operation of such order or requirement be suspended, pending an appeal therefrom, the period of such suspension shall not be computed against the corporation, person or firm, in the matter of its liability to fines and penalties. Any corporation, person or firm that switches the local or long distance telephone service provider of a customer or electric generator, electric transmitter, electric distributor, retail electric energy supplier or any other person engaged in the retail sale or delivery of electricity to a retail consumer without the written consent of the telephone customer or retail electric consumer may be fined by the Corporation Commission a sum not to exceed Ten Thousand Dollars (\$10,000.00) per occurrence, as the Commission may deem proper after notice and hearing.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 722 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. At no time shall any person, firm, corporation aggregator, marketer or any other entity contact any residential electric consumer by telephone for the purpose of marketing or offering any electric service or other related services. Marketing or offering any electric service or related services by telephone may be allowed if the telephone conversation is initiated by the consumer. Provided, however, any change in electric service or related services shall only be completed with the informed written consent of the consumer.

B. No change in residential or small commercial electric service shall be completed unless the informed written consent of the retail consumer has been obtained. Residential and small commercial consumers of electricity shall have three (3) business days to rescind any written consent given for such change of electric service.

C. No person, firm, corporation, cooperative association, municipality, or beneficial trust thereof may place unauthorized charges on the bill of a retail residential or small commercial consumer of electricity for services or products that were not received or ordered by such retail consumer, residential or small commercial consumer or were sold through or obtained by deceptive market practices.

D. Any person who intentionally violates any of the provisions of this section shall be subject to a fine of not to exceed Ten Thousand Dollars (\$10,000.00) per violation.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 723 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall prohibit any generator, transmitter, distributor, retail electric energy supplier, aggregator, or any other person engaged in the retail sale or distribution of electricity or electric services from owning,

leasing, operating, affiliating, maintaining or acting in any other manner with another generator, transmitter, distributor, retail electric energy supplier, aggregator, or any other person engaged in the retail sale or distribution of electricity or electric services.

B. Any electric generator, electric transmitter, electric distributor, retail electric energy supplier, aggregator, or any other person engaged in the retail sale or distribution of electricity or electric services in this state that owns, leases, operates, affiliates, maintains or acts in any other manner with another electric generator, electric transmitter, electric distributor, retail electric energy supplier, aggregator, or any other person engaged in the retail sale or distribution of electricity or electric services licensed or registered in this state shall provide that:

1. Employees shall function independently of each other;
2. Cross subsidization shall not occur;
3. Sales or transfers of assets following the implementation of restructuring on July 1, 2002, shall be valued at no less than fair market value;
4. No preferential disclosure of information shall occur;
5. No preferential use or transfer of transmission or distribution assets shall occur;
6. No tying arrangements or subsidization of prices charged to a retail consumer shall occur;
7. Competitively sensitive market information shall not be disclosed unless such information is provided to all other licensed and registered entities who provide similar services;
8. Books and records be available for review and inspection but that no information acquired from any examination of those books and records can be used for competitive purposes; and
9. Complaint procedures be established to provide timely response to allegations of violations of these provisions.

C. Any generator, retail electric energy supplier or affiliate thereof seeking to use electric distribution facilities of any electric distributor for the purpose of supplying retail electric energy shall be required to provide equivalent access to its own electric distribution facilities on a nondiscriminatory basis.

D. The Corporation Commission shall promulgate, with the advice of the Market Structure Advisory Committee, rules to implement the provisions of this section. Each jurisdictional entity shall adopt rules to ensure enforcement of the uniform rules by all entities subject to its jurisdiction.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725 of Title 17, unless there is created a duplication in numbering, reads as follows:

The Corporation Commission, with the advice of the Regulatory Advisory Committee, shall, promulgate rules and each jurisdictional entity shall adopt rules to ensure that retail consumers are provided continuing electric service for a period of five (5) years following implementation of electric restructuring on July 1, 2002. Such rules shall provide that:

1. Each electric distributor shall have a continuing obligation to provide all services it provided to retail consumers prior to the date of implementation of electric restructuring at the rate being charged for such services prior to electric restructuring implementation for a period not to exceed five (5) years;

2. An electric distributor shall not be required to create a separate retail electric energy supplier for the purpose of carrying out the provisions of this section. An electric distributor may create an affiliated but separate retail electric energy supplier and a retail consumer may elect to utilize the services of such retail electric energy supplier or any other retail electric energy supplier;

3. The electric distributor's continuing obligation to provide all services it provided to a retail consumer prior to the date of implementation, pursuant to the provisions of this section, shall terminate when a retail consumer elects, in writing, to utilize the services of a retail electric energy supplier affiliated with the electric distributor or any other retail electric energy supplier; provided, however, when a retail consumer makes such election, the electric distributor shall have the continuing obligation to provide all of the delivery services of an electric distributor including nondiscriminatory access to its transmission and distribution system and any other related services required by this act;

4. If forty percent (40%) of the retail consumers of an electric distributor elect to utilize the services of retail electric energy suppliers licensed to do business in this state prior to July 1, 2007, an electric distributor shall cease to have the obligation to provide all services it provided to its retail consumers prior to the implementation of the act but shall have the continuing obligation to provide all of the delivery services of an electric distributor including nondiscriminatory access to its transmission and distribution system and any other related services required by this act;

5. On July 1, 2007, or an earlier date should the electric distributor's retail consumers elect to utilize the services of a retail electric energy supplier pursuant to the provisions of paragraph 4 of this section, any retail consumer that has not elected to utilize the services of a retail electric energy supplier must be provided electricity by a retail electric energy supplier selected by the retail consumer by written selection from among all of the retail electric energy suppliers licensed to do business in this state. Such written selection shall ensure that every retail consumer has the continuing right to change retail electric energy

suppliers at any time, but such change must be authorized by the written consent of the retail consumer;

6. A retail consumer seeking to purchase electricity at a location where electric service has never been provided must utilize the services of a retail electric energy supplier to obtain electricity for that facility;

7. A retail consumer seeking to purchase electricity at a location where electric service has already been provided to another retail consumer must utilize the services of a retail electric energy supplier to obtain electricity for that facility.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 726 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Every state agency that provides employment assistance and job training programs shall develop programs to assist employees whose employment is affected by the implementation of electric restructuring on July 1, 2002, in this state. Except as provided by federal law, a state law, or by contract or agreement, no unencumbered funds in a pension fund established for employees of companies affected by electric restructuring in this state shall be used for any purpose other than the payment of allowable pension benefits or early retirement benefits for those affected employees.

B. The Consumer Services and Protection Advisory Committee shall, if requested, assist any jurisdictional entity in the development of processes to assist any affected employees.

Part 4. Operations and Environment

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 727 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission, with the advice of the Operations and Environment Advisory Committee, shall promulgate rules to encourage the investment in and development of renewable

energy technologies in this state. As used in this section, "renewable energy technologies" means any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment.

B. Generators, retail electric energy suppliers, and aggregators should be encouraged but shall not be required to use electricity generated from renewable energy technologies after implementation of electric restructuring occurs on July 1, 2002. In recognition of the potential environmental impacts of electricity generation utilizing traditional energy sources derived from fossil fuels, an effort should be made to minimize the environmental effects of potential increased generation of electricity.

C. To enhance the opportunities for development of renewable energy technologies and distributed generation the Corporation Commission shall develop, with the advice of the Operations and Environment Advisory Committee, rules that encourage:

1. Metering capabilities that will allow metering and nondiscriminatory rates for retail consumers that generate electricity, on the retail consumer's side of the meter, using renewable energy technologies or distributed generation technologies, for the net amount of electricity supplied by the generator or retail electric energy supplier over an annualized period. At the end of the annualized period, the generator or retail electric energy supplier and the retail consumer shall determine the amount, if any, that should be paid to the retail consumer for excess power generated by the use of a renewable energy technology or distributed generation technology; and

2. Reliable nondiscriminatory access and interconnection criteria for renewable energy technologies and distributed generation technologies.

D. For the development of statewide and source specific criteria for the construction and operation of new electric generating facilities where combustion emissions generated will potentially cause the exceedance of applicable ambient air quality standards for ozone, the Department of Environmental Quality shall conduct a comprehensive study of the potential adverse effects of these combustion emissions on Oklahoma's attainment status for ozone. Such study shall be submitted on January 1, 2002, and a report of the findings shall be delivered to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Joint Electric Utility Task Force. The Department of Environmental Quality shall not issue any permit to allow the construction of any new electric generating facility until the completion of the study mandated by this subsection.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 728 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission, with the advice of the Regulatory Advisory Committee, shall, to the extent not prohibited by federal law, promulgate rules which establish the procedures whereby electric distributors furnish electric delivery service, instrumentalities, and facilities that are reliable, adequate, and efficient, utilizing terms of access, operations and conditions of providing services that are nondiscriminatory and each jurisdictional entity shall implement such rules.

In establishing such rules and procedures whereby electric transmitters and electric distributors furnish electric delivery services, instrumentalities and facilities, the rules shall include, but not be limited to:

1. Mechanisms to ensure nondiscriminatory access to electric transmission and electric distribution systems to all buyers and sellers;

2. Processes that ensure that monopolistic bidding behavior, that may occur during high load conditions, is mitigated to the maximum extent possible; and

3. An ongoing review process of all available reliability and safety options, including but not limited to reliability, must run contracts, repowering of existing units, load growth in this state, and capacity and demand side management alternatives.

B. No electric transmitter or electric distributor shall be required to install nonstandard facilities, either as to type or location, for the purpose of receiving electric energy from a generator or retail electric energy supplier unless the generator or retail electric energy supplier or retail consumer pays the full cost of these facilities. Provided, however, the electric transmitter or electric distributor must provide upgraded facilities required to meet its own retail consumer requirements at comparable rates and charges to any other generator, retail electric energy supplier, or retail consumer.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 729 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission, with the advice of the Operations and Environment Advisory Committee, shall develop service quality, maintenance and reliability and safety standards relating to the delivery of electricity to retail consumers by electric transmitters and electric distributors and each jurisdictional entity shall adopt rules to implement such standards. Such standards shall include but are not limited to:

1. The system-average interruption frequency index (SAIFI);
2. The system-average interruption duration index (SAIDI);
3. Average response time for consumer service requests or inquiries and the achievement rate;

4. Standardized electronic information exchange systems for generators, electric distributors, retail electric energy suppliers, and aggregators; and

5. Other standards that the Commission finds reasonable and appropriate.

B. Each jurisdictional entity, to the extent not prohibited by federal law, shall take appropriate enforcement actions under this section, including but not limited to actions against an electric transmitter or electric distributor, if:

1. Any feeder's operational records demonstrate that ten percent (10%) or more of the retail consumers receiving delivery services from that feeder have consistently experienced unsatisfactory performance from that feeder for two (2) consecutive years; or

2. Any feeder has had a SAIDI or SAIFI average that is more than three hundred percent (300%) greater than the system average of all feeders during any two-year period, beginning in the year 2001.

C. The standards implemented under subsection A of this section shall require all electric transmitters and electric distributors to maintain adequately trained and experienced personnel throughout its service area so that the electric transmitter or electric distributor is able to fully and adequately comply with the appropriate service quality and reliability standards.

D. The standards shall ensure that electric transmitters and electric distributors do not neglect any local neighborhood or geographic area, including low income neighborhoods or regions, rural areas, and communities of less than two thousand five hundred (2,500) persons, with regard to system reliability.

E. The Commission may require each electric transmitter and electric distributor to supply data to assist the Commission in developing the reliability and safety standards required by this section.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 730 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Each electric distributor shall continue to provide customer service functions consistent with the rules of the jurisdictional entity, including meter reading, retail consumer billing, consumer education and consumer information dissemination, complaint resolution and collections. Customer services shall, at a minimum, be maintained at the same level of quality under retail competition as existed prior to implementation of electric restructuring.

B. The Corporation Commission shall, with the advice of the Consumer Services and Protection Advisory Committee, promulgate rules and each jurisdictional entity shall adopt rules which implement the following processes and procedures:

1. To ensure that an electric distributor does not change a retail consumer's electricity supplier without written evidence of the retail consumer's consent to a change of supplier;

2. To require each electric distributor, retail electric energy supplier, and aggregator to provide adequate and accurate consumer education and consumer information to enable retail consumers to make informed choices regarding the purchase of all electricity services offered by a provider. Information shall be provided to retail consumers in an understandable format that enables retail consumers to compare prices and services on a uniform basis;

3. That define the electric distributor's obligation to connect, deliver and acquire electricity pursuant to this act; and

4. To ensure that a retail consumer that chooses an alternate generator or retail electric energy supplier and subsequently desires to return to the local distributor's retail electric energy supplier for generation service will be treated in the same manner as any new applicant for distribution service.

C. Notwithstanding the provisions of subsection B of this section, the Commission, with the advice of the Consumer Services and Protection Advisory Committee, shall commence no later than July 1, 2004, a study to determine the feasibility of restructuring electric metering and billing services. The study and the findings, results and recommendations shall be concluded no later than December 31, 2004, and be transmitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 731 of Title 17, unless there is created a duplication in numbering, reads as follows:

Subject to the right of a retail consumer to choose to receive separate bills from its retail electric energy supplier, the electric distributor shall be responsible for billing retail consumers for all electric services, including but not limited to generation, transmission and distribution services or associated activities consistent with rules promulgated by the Corporation Commission, with the advice of the Regulatory and Consumer Services and Protection Advisory Committees and adopted by each jurisdictional entity, regardless of the identity of the provider of those services.

Such rules shall provide:

1. A retail consumer's bill shall contain a description of the charges made during the billing period sufficient to enable the retail consumer to determine the basis for those charges; and

2. If services are provided by an entity other than the electric distributor, the entity that provides those services shall furnish to the electric distributor billing information for the billing period that is sufficient and timely to enable the electric distributor to properly prepare the monthly bill to be sent to the retail consumer.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 732 of Title 17, unless there is created a duplication in numbering, reads as follows:

All electric transmitters and electric distributors providing delivery of electricity to retail consumers in this state shall, for the purposes of making preliminary examinations, surveys, and for the construction, maintenance, and expansion of its facilities, have the right to enter upon any land held by the electric transmitter or electric distributor whether acquired by purchase, condemnation, lease, franchise, or other process. Electric transmitters and electric distributors may exercise the power of eminent domain for the purpose of construction, operation, and maintenance of wires, poles, towers, piers, conduits, cables, including fiber optic cable, substations, switching facilities, and other necessary structures and facilities but in no case shall such authority to exercise the power of eminent domain be utilized by any entity except municipalities participating in restructuring for the purposes of construction and maintenance of generating facilities.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 733 of Title 17, unless there is created a duplication in numbering, reads as follows:

Following implementation of restructuring on July 1, 2002, a municipality shall collect from each franchise holder the amount required in the franchise existing on July 1, 2002, until such time as a new franchise is negotiated. Any new franchise adopted after July 1, 2002, shall include provisions for use of the streets, alleys and other public ways and must provide a method of collection to provide adequate compensation to the city or town for such use.

Any electric distributor operating within the corporate limits of any city or town without a franchise shall provide such city or town an amount equal to that a franchised electric distributor must provide.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 734 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission shall, with the advice of the Market Structure Advisory Committee and the Operations and Environment Advisory Committee, promulgate rules to designate distribution service territories within the municipal boundaries of a municipality where, by annexation, there are two or more lawful electric distributors authorized to provide electric distribution services. Such areas shall be referred to as intermingled areas for the purposes of this section.

B. For purposes of this section, a "lawful electric distributor" means:

1. An electric distributor providing electric distribution services in the area annexed by the municipality prior to its annexation by virtue of contractual agreements establishing territorial boundaries in existence at the time the contract was consummated and approved by the Corporation Commission;

2. An electric distributor providing electric service to retail consumers pursuant to a franchise granted by a majority of the registered voters of the city or town annexing such area; and

3. An electric distributor of a municipality or a beneficial trust thereof participating in electric restructuring providing electric distribution services in the municipality annexing such area.

C. Territorial boundaries in these intermingled areas of this state shall be established in the following manner:

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

2. Except as otherwise provided in this act, no electric distributor shall furnish electric distribution services except in areas where it has been designated as the principal electric distributor under the provisions of this act, provided that:

- a. the provisions of this section shall not preclude any electric distributor from serving or extending electric distribution service to its own property and facilities in an intermingled area, or
- b. prohibit any electric distributor from extending its distribution facilities through an intermingled area of an electric distributor, if such extension is necessary for such electric distributor 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 distributor, all new electric consuming facilities in the intermingled areas shall be provided electric distribution services by the principal electric distributor; provided, however, that all electric distributors 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 distributors authorized to operate in an intermingled area may jointly petition the Commission to improve or modify an agreement between the companies establishing the principal electric distributor in an intermingled area. The Commission shall:

- a. consider a petition jointly filed by all the electric distributors 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 distributor designated by the agreement would not otherwise be so designated pursuant to subsections 7, 8, or 9 of this section, 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 subsection 4 of this section within ninety (90) days of the effective date of this act, electric distributors shall notify the Commission by filing an application setting forth the following:

- a. the reason for disagreement,
- b. a legal description of the area in dispute divided into forty (40) acre tracts,
- c. a proposed map, and
- d. the number of electric consuming facilities claimed by each electric distributor to be served;

6. For purposes of the application, a forty (40) 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 Survey System;

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

- a. all facilities served through one meter shall be counted as one electric consuming facility, and
- b. an electric distributor 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 distributor for such subdivision;

8. In the event the number of electric consuming facilities of each electric distributor 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 distributor in the tied forty-acre tract;

9. In the event the total number of electric consuming facilities of each electric distributor in the quarter section is equal, the electric distributor having the nearest distribution facilities located along the section lines shall be declared by the Commission to be the principal electric distributor;

10. If both electric distributors 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 distributor;

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

12. Upon a determination of the principal electric distributor pursuant to subsection 5 of this section, each electric distributor shall file with the Commission the information regarding the identification and location of each intermingled area, all forty (40) acre tracts therein and the identification of each principal electric distributor in each such forty (40) acre tract, provided that:

- a. the Commission shall approve such determinations of the principal electric distributor 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 distributor and a copy of such map or maps shall be deposited with the Consumer Services and Protection Division of the Office of the Attorney General;

13. In all intermingled areas where there are two or more lawful electric distributors authorized to provide electric distribution services, the retail consumer of electricity at a new or existing electric consuming facility shall have the right to select an electric distributor other than the principal electric distributor in such area, provided that:

- a. in the event the retail consumer selects an electric distributor other than the principal electric distributor, such retail consumer shall pay to the principal electric distributor a transfer fee equal to ten times the annual gross distribution revenues of electricity to be derived by the principal electric distributor from such retail consumer at the electric consuming facility, provided that, if historical data is not available to determine the annual gross revenues, an estimate shall be made by the principal electric distributor based upon the size and characteristics of the electric consuming facility in question,
- b. the nonprincipal electric distributor to which a retail consumer desires to switch shall not directly or indirectly pay the transfer fee, and

c. no electric distributor shall pay, directly or indirectly, to any retail consumer, builder, developer or any other person, firm, corporation, or other entity any inducement for the construction of distribution facilities in any intermingled area of the state;

14. When an area or areas annexed by a municipal corporation after the effective date of this act encompass territory previously certified to an electric distributor, such certified distributor shall become the principal electric distributor in such annexed area or areas;

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

16. All electricity purchased for ultimate retail consumption within this state shall be delivered to the retail consumer by the principal or certified electric distributor of the area of territory in which the electric consuming facility is located;

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

18. All such sales within this state shall be delivered to the retail consumer by the principal or certified electric distributor of an intermingled area or territory in which the electric consuming facility is located;

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

20. If the Commission, after hearing, shall determine that an electric distributor 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 distributor for the forty-acre tract; and

21. The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend and rescind such orders or rules necessary to carry out the provisions of this section.

Any party adversely affected by any action of the Commission under the provisions of this section 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.

Part 5. Taxation

SECTION 35. 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 as and may be cited as the "Oklahoma Electrical Energy Tax Code".

SECTION 36. 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 restructuring of the electric utility industry in this state, mandated and implemented by the Oklahoma Electric Restructuring Implementation Act, enacted pursuant to this act, 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 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 retail 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 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 37. 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. "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 pursuant to Section 437 et seq. of Title 18 of the Oklahoma Statutes;

2. "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 distributor,
- 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,
 - (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;

3. "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 distributed generation facility;

4. "Electric transmission company" means any person, or any combination of persons, or lessees, trustee, 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;

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

6. "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 the state, or any group or combination acting as a unit, in the plural or singular number; and

7. "Self-generator" means a person, other than an electrical generation company, rural 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.

SECTION 38. 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 replaced or modified herein.

SECTION 39. 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 01.80 mills per kilowatt hour as follows:

A. Electrical Generation companies. An electrical energy tax of 0.22 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.

B. Electrical Transmission companies. An electrical energy tax of 0.22 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 01.58 mills per kilowatt hour of electricity consumed.

C. Electrical Distribution companies. An electrical energy tax of 01.36 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 distributing electricity.

SECTION 40. 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 deemed guilty of a misdemeanor upon conviction thereof and shall be fined 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 incarcerated for not more than sixty (60) days, or both.

SECTION 41. 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 1st 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 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 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 Tax Commission on the 1st 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 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 Tax Commission on the 1st 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 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 this state and be preserved for a period of three (3) years unless the Tax Commission, in writing, has authorized their destruction, or disposal, or maintenance at a different location outside this state, and shall be open to examination at any time by the Tax Commission or by any of its duly authorized agents.

SECTION 42. 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 and who is delinquent or becomes delinquent in the reporting of or paying of any taxes levied under this article or penalties or interest thereon to furnish to the Commission a cash 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 43. 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 44. 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 electrical 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 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1460 of Title 68, unless there is created a duplication in numbering, reads as follows:

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

B. Except as provided 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 a rural 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 46. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 9, Chapter 390, O.S.L. 1999 (68 O.S. Supp. 1999, Section 1357), 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 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. Beginning July 1, 1998, 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; ~~and~~

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

SECTION 47. 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 of this title~~ the generation, transmission or distribution of electrical energy pursuant to the Oklahoma Electric Restructuring Implementation 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 ~~Section 1~~ Sections 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 48. 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 corporation, transportation companies and transmission companies shall not be construed to include electrical generating companies, electrical distribution companies, electrical transmission companies or Rural 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, the terms "transmission company" and "public service corporation" shall not be construed to include cable television companies.

~~E.~~ 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 through ad valorem tax year 1998.

SECTION 49. 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 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 sales fee as specified herein on the gross receipts from all sales and/or delivery of electric energy, natural gas or water for ultimate consumption, which ~~tax~~ fee shall be in lieu of any other franchise, license, occupation ~~or exercise tax~~ fees, levied by such city or town, provided that:

1. In cities or towns where a franchise exists as of July 1, 2002, the fee shall not exceed the highest franchise fee established for such like service being provided by the franchisee;

2. In cities or towns where there is no franchise, 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 of ten thousand (10,000) persons; and

3. In cities and towns that own or operate, either directly or through a public trust, their own electric distribution system and which do not opt into electric restructuring as provided for in Section of this act, the fee shall not exceed two percent (2%) of the gross receipts from the distribution of electricity within such city or town.

B. Provided, in addition to the Oklahoma Electrical Energy Tax that is to be collected by any municipally owned electrical system, and the Oklahoma Municipal Power Authority opting to participate, or the Grand River Dam Authority, any such entity participating shall also assess and collect from its retail consumers a franchise tax in the same amount and percentage as is being assessed against electric cooperatives and/or privately or publicly owned electrical suppliers competing in the same retail market as the municipally owned electrical operating system, the Oklahoma Municipal Power Authority, or the Grand River Dam Authority.

SECTION 50. AMENDATORY 68 O.S. 1991, Section 2602, is amended to read as follows:

Section 2602. The ~~tax~~ fee authorized to be levied under Section ~~4, 2601~~ of this ~~act~~, title shall, when levied, apply to all persons, firms, associations, municipalities or public trusts thereof, the Oklahoma Municipal Power Authority, the Grand River Dam Authority or corporations 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 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1461 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 Consumption Excise Tax Code".

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1462 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 a consumption excise tax upon the retail sale of electrical energy in those municipalities, and the Oklahoma Municipal Power Authority who are participating in electric restructuring and the Grand River Dam Authority. This electrical energy consumption 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 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1463 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 who are participating in electric restructuring and the Grand River Dam Authority, their successors and assigns, a consumption

excise tax of 1.8 mills per kilowatt hour of electrical energy consumed in this state. This consumption 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 Electrical Energy Deregulation Act will collect the electrical energy consumption excise tax from its retail customers and may either deposit the tax in the entities' general revenue fund as directed by the entities' 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 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1464 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 ___ through ___ of this act.

SECTION 55. 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 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 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 established pursuant to the provisions of this act and the collection and remittance from its consumers of the appropriate taxes under the provisions of the Oklahoma Sales Tax Code as amended by the provisions of this act. Provided, however,

no cooperative or foreign corporation transacting business in this state pursuant to the Rural Electric Cooperative Act 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 that are not participating in electric restructuring as provided for in the Oklahoma Electric Restructuring Implementation Act enacted pursuant to the provisions of this act.

SECTION 56. 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 to 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 retail 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 at a 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 retail 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 retail 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 retail 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.

Part 6 - Miscellaneous Amendments

SECTION 57. AMENDATORY 18 O.S. 1991, Section 437, is amended to read as follows:

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

SECTION 58. 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 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 59. AMENDATORY 18 O.S. 1991, Section 437.2, is amended to read as follows:

Section 437.2 A cooperative shall have power:

- (a) To sue and be sued in its corporate name;
- (b) To have a perpetual existence unless a limited period of duration is stated in its charter;
- (c) To adopt a corporate seal and alter the same at pleasure;
- (d) 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) To make loans to persons to whom electric energy ~~is~~ or distribution services are 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) To make loans to persons to whom electric energy ~~is~~ or distribution services are 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) To become a member in one of more other cooperatives or corporations or to own stock therein;

(h) 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 of 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) 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) 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) 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 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 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 provided in Article 2, Section 24, of the Oklahoma Constitution and Sections 53 to 58, inclusive, of Title 66 of the Oklahoma Statutes.~~

(l) To conduct its business and exercise any or all of its powers within this state;

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

(n) 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) 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 uncollectable in any court of the State of Oklahoma.

SECTION 60. AMENDATORY 18 O.S. 1991, Section 437.7, is amended to read as follows:

Section 437.7 (a) No person who is not an incorporator shall become a member of a cooperative unless such person shall agree to use

electric energy or distribution services as may be furnished by the cooperative when such electric energy or 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~~ such person fails or refuses to use electric energy or distribution services or such other services as may be made available by the cooperative or if electric energy ~~shall or~~ distribution 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) An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

(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) 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) 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) 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~~ 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 61. 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 or distribution services or other related 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 members at any voting district meeting and no delegate at any meeting shall vote by proxy or by mail.

SECTION 62. 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 63. 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~~ 30 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.

SECTION 64. 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 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 65. AMENDATORY 17 O.S. 1991, Section 151, is amended to read as follows:

Section 151. The term "public utility" as used in Sections 151 through 155 of this title, shall ~~be taken to mean and include~~ every corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, except as hereinafter provided, and except cities, towns, or other bodies politic, that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, or may supply any commodity to be furnished to the public.

(a) For the conveyance of gas by pipeline.

(b) For the production, transmission, delivery or furnishing of heat or light with gas.

~~(c) For the production, transmission, delivery or furnishing electric current for light, heat or power.~~

~~(d)~~ For the transportation, delivery or furnishing of water for domestic purposes or for power. Provided further that a corporation organized and existing not for profit pursuant to Section 863 of Title 18 of the Oklahoma Statutes, Sections 851-863, but for the

purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents shall not be declared a public utility under this act, and shall be exempt in any and all respects from the jurisdiction and control of the Corporation Commission of this state.

The term "Commission" shall ~~be taken to~~ mean the Corporation Commission ~~of Oklahoma~~.

~~Provided, that, in Washington County, where any corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, is engaged in the private business of manufacturing any products other than those hereinbefore defined, and in the manufacture of such products operate and maintain private electric or water plants for its own power and electrical energy or water used in its manufacturing plant, without the right of eminent domain and without the use of streets, highways or public property, it may contract upon terms and prices approved by Corporation Commission the sale of a bona fide surplus of electrical energy or water developed in such private plants to any public utility engaged in manufacturing and distributing electrical energy in Washington County, Oklahoma, without becoming a public utility.~~ Provided ~~further~~ that any city or town within a county having a population of over five hundred thousand (500,000) or any county having a population of over five hundred thousand (500,000), according to the 1970 Federal Census, which is a beneficiary of a public trust that has multiple beneficiaries and that includes within any or all of its boundaries a water supply ~~and/or~~ distribution system, or any portion thereof, shall have the authority to condemn all or any portion of any water supply ~~and/or~~ distribution system owned ~~and/or~~ operated ~~and/or~~ leased by a public trust within the limits of the condemning city or town or within the unincorporated areas of the condemning county; provided the power granted hereunder shall not be exercised until the condemning city, town or county shall have made

provision to pay off all outstanding bonded indebtedness incurred by the public trust, including interest on the bonds to maturity of the bonds, or first call date, and premium, if any, to which the property to be condemned or the revenues therefrom has been pledged for security.

SECTION 66. AMENDATORY 17 O.S. 1991, Section 152, as last amended by Section 6, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1999, Section 152), is amended to read as follows:

Section 152. A. The Corporation Commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe and promulgate rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted.

B. 1. When any public utility subject to general supervision pursuant to this section ~~or to Section 158.27 of this title~~ shall file with the Commission a request for review of its rates and charges, such request shall be given immediate attention.

2. In the exercise of this responsibility, the Commission shall complete any examination of such request for a review of its rates and charges within one hundred twenty (120) days from the date such application for review of its rates and charges is filed.

3. Public hearings on such matter must commence within forty-five (45) days of the end of such examination to be conducted by the Commission and in no event shall the conclusion of such examination of the rates and charges and the hearing conducted by the Commission exceed one hundred eighty (180) days from the date the request was filed.

4. If such request for review of the applicant's rates and charges has not been completed and an order issued within one hundred eighty (180) days from the date of filing of such

application, some or all of the request for changes in the rates, charges, and regulations made in such application shall be immediately placed into effect and collected through new tariffs on an interim basis at the discretion of the applicant.

5. Should the Commission determine upon the completion of its examination and public hearings that a refund regarding the amount of interim relief is appropriate and necessary, the Commission shall order such refund including reasonable interest at the one-year U.S. Treasury bill rate accruing on that portion of the rate increase to be refunded for a period not to exceed ninety (90) days from the effective date of the rate increase which is being refunded.

C. The Commission shall have full visitorial and inquisitorial power to examine such public utilities, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, 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 this act, and with the Constitution and laws of this state, and with the orders of the Commission.

SECTION 67. AMENDATORY 17 O.S. 1991, Section 160.1, as last amended by Section 4, Chapter 328, O.S.L. 1995 (17 O.S. Supp. 1999, Section 160.1), is amended to read as follows:

Section 160.1 A. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of natural gas, steam heat and steam, except for steam used in the generation of electricity, serving the general public notwithstanding operation thereof by a trust, authority, cooperative and subsidiary created for the benefit or furtherance of a public function pursuant to a trust or public trust, unless the ~~said~~ body operating ~~said~~ the system has financing or is in the process of

financing the acquisition, improvement or extension of the ~~said~~ system with a loan from the United States of America and is a nonprofit trust.

B. The Corporation Commission shall also have general supervision over any person or entity to whom the function of operating a natural gas, steam heat or steam supply system, except steam used in the generation of electricity, has been delegated by such a trust, authority, cooperative or subsidiary. Provided, nothing herein shall be construed to apply to a public trust whose ~~Board of Trustees~~ board of trustees is composed of elected officials or is elected by the customers or a majority of which is composed of members selected by the governing bodies of municipalities in which the public trust operates, or members which it serves, and which ~~Board of Trustees~~ board of trustees has the authority to establish and regulate its own rates.

C. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of steam, except steam used in the generation of electricity, and chilled water serving any portion of any municipality if such system serves more than fifty ~~(50)~~ off-site commercial customers within such municipality.

D. The Corporation Commission shall have the power to fix and establish rates and to prescribe rules, requirements and regulations affecting their services, operation and the management and conduct of the business of persons and entities subject to this act, Section 160.1 et seq. of this title, and shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitorial and inquisitorial power to examine such operations, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, 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 Constitution and laws of this state, and with the orders of the Commission.

E. The ratemaking authority and general jurisdiction of the Corporation Commission, created under this act, shall be subject to the following exceptions:

~~1.~~ The Corporation Commission shall not have ratemaking authority or general jurisdiction over:

~~a. steam~~ 1. Steam supply systems operated by public trusts which supply steam to customers presently served by or located within the mid-America industrial district ~~;~~ or

~~b. an~~ 2. An institution of higher education, or related entities, now operating such steam and chilled water facilities not for profit; ~~and~~

~~2. The Commission shall not have authority to:~~

~~a. compel an electric public utility to make inspections of consumer-owned facilities, or~~

~~b. compel an electric public utility to provide electric utility service wherein the electric public utility believes such service is likely to endanger the public health and safety or the health and safety of employees of the electric public utility.~~

SECTION 68. AMENDATORY 17 O.S. 1991, Section 180.1, is amended to read as follows:

Section 180.1 A. Advertising expenses shall not be included by a public utility in its operating expenses for ratemaking purposes.

B. For purposes of subsection A of this section:

1. "Advertising" means:

a. the commercial use by a public utility of any media including, but not limited to, newspaper, magazine,

radio and television to transmit a message to the public or to such public utility's customers, or

- b. the commercial use by a public utility of any printed material to transmit a message to a substantial number of members of the public or to a substantial number of the public utility's customers;

2. "Advertising" shall not mean:

- a. periodic publications or reports required by the bylaws of any public utility ~~or electric cooperative,~~
- b. any communication with customers and the public which is strictly limited to energy conservation and education,
- c. any communication with customers and the public which provides telephone customers with instruction in the use of new, changed or improved features of their telephone service, or information about time periods or other conditions under which long distance calls may be made at reduced rates, or information which promotes the efficient use of the telephone network; provided that if the cost of providing such information is to be treated as an operating expense by the public utility, it shall be clearly marked or identified to indicate the identity of the public utility and the fact that the cost is paid for by the ratepayers of the public utility,
- d. any communication with customers and the public for giving of information or notice required by law or otherwise necessary to warn of dangerous or hazardous conditions,
- e. routine classified telephone listings for the convenience of customers,
- f. informational inserts in customers' bills,

- g. any communication with customers and the public which informs existing and potential customers of the availability and conservation features of energy-efficient appliances and equipment,
- h. any communication with customers and the public which relates to industrial development, and
- i. any communication with customers and the public which is in furtherance of conservation or load management programs approved by the Corporation Commission;

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

- a. ~~producing, generating, transmitting, distributing, selling or furnishing electricity,~~
- ~~b.~~ the conveyance, transmission, reception or communications over a telephone system; provided that no authority not otherwise a public utility within the meaning of this section shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system, or
- ~~e.~~ b. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public; and

4. "Appliances" and "equipment" mean those individual appliances and space-conditioning equipment introduced by manufacturers after November 9, 1978, which operate at a level of efficiency at least twenty percent (20%) greater than appliances and space-conditioning equipment of the same energy type manufactured prior to that date.

SECTION 69. AMENDATORY 17 O.S. 1991, Section 180.2, is amended to read as follows:

Section 180.2 A. No public utility which has for one of its purposes the sale or distribution of energy may include promotional payments in its operating expenses for ratemaking purposes.

B. For purposes of subsection A of this section:

1. "Promotional payment" means any payment, gift or other remuneration made directly or indirectly by a public utility to or for the account of any builder or other person to encourage or induce such builder or other person to install appliances including, but not limited to, space heaters, heat pumps, clothes dryers, water heaters and stoves and equipment which will consume any energy sold or marketed by such public utility;

2. "Promotional payment" shall not mean payments, gifts or other remuneration made for conservation or load management programs or energy-efficient appliances and equipment introduction programs approved by the Corporation Commission;

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

~~a. producing, generating, transmitting, distributing, selling or furnishing electricity, or~~

~~b. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public; and~~

4. "Appliances" and "equipment" mean those individual appliances and space-conditioning equipment introduced by manufacturers after November 9, 1978, which operate at a level of efficiency at least twenty percent (20%) greater than appliances and

space-conditioning equipment of the same energy type manufactured prior to that date.

SECTION 70. AMENDATORY 17 O.S. 1991, Section 180.11, as amended by Section 5, Chapter 328, O.S.L. 1995 (17 O.S. Supp. 1999, Section 180.11), is amended to read as follows:

Section 180.11 A. The Corporation Commission is hereby authorized to assess a fee upon each public utility to provide adequate funding to the Public Utility Division of the Oklahoma Corporation Commission for the regulation of public utilities in this state and for providing for timely and expeditious reviews and completion of rate cases, and increased responsiveness to the needs of retail consumers and the regulated community.

B. 1. The assessment authorized by this section may, after excluding the amount allocated to interexchange telecommunications companies, resellers, pay phone service providers and operator service providers in paragraph 2 of this subsection and transmitters, distributors, retail electric energy suppliers, and aggregators in paragraph 3 of this subsection, be borne by the affected public utilities as follows:

- a. one-half shall be allocated based on that proportion which the total regulated Oklahoma jurisdictional gross operating revenues of each public utility bear to the total regulated Oklahoma jurisdictional gross operating revenues of all public utilities, and
- b. one-half shall be allocated based on that proportion which the total number of regulated Oklahoma jurisdictional customers of each public utility bears to the total number of regulated Oklahoma jurisdictional customers of all public utilities.

2. For interexchange telecommunications companies, resellers, pay phone service providers and operator service providers, the allocation may be based on the total regulated Oklahoma

jurisdictional gross operating revenues that each interexchange telecommunications company, reseller or operator service provider bears in proportion to the total regulated Oklahoma jurisdictional gross operating revenue of all public utilities as applied to the total amount of the assessment to be collected from all public utilities for each year; and

3. The license or registration fee for electric generators, electric transmitters, electric distributors, retail electric energy suppliers, marketers, brokers, and aggregators shall be considered as the assessment to provide adequate funding for the activities of the Commission required by the provisions of this act; provided, however, the total amount collected from such license or registration fees shall not exceed the amount collected from the entities providing retail electric services prior to implementation of this act.

C. Any assessment levied pursuant to this section shall be recoverable as an operating expense to the public utility or electric transmitter or electric distributor and shall be included in a utility's base rates or basic monthly service charge. The Corporation Commission shall take such action necessary to ensure recovery of the assessment by a public utility during the period for which it is levied.

D. The Corporation Commission may provide that each public utility shall pay any assessment levied pursuant to this section on a quarterly basis. Notice of the annual assessment shall be sent by certified mail, return receipt requested, to each public utility. Each public utility shall pay the amount assessed to the Commission for deposit to the Public Utility Regulation Revolving Fund created in subsection E of this section. A public utility may, at its discretion, pay its annual assessment prior to the due date of the quarterly payments.

E. Any assessment collected by the Commission pursuant to this section shall be deposited in the Public Utility Regulation Revolving Fund hereby created. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of the monies received by the Commission from any assessment levied pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission to pay the costs, both direct and indirect, of the Public Utilities Division incurred to regulate public utilities. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

F. The Legislature shall establish budgetary limits for the Public Utility Division of the Corporation Commission. Any assessment levied pursuant to this section shall not exceed the amount of the budgetary limits and indirect costs for related support functions established by the Legislature for any fiscal year.

G. For purposes of this section, "public utility" means:

1. A public utility as defined by Section 151 of Title 17 of the Oklahoma Statutes, excluding those companies encompassed by paragraph (d) of Section 151 of ~~Title 17 of the Oklahoma Statutes~~ this title; and

2. Any telephone or telecommunications company subject to Section 131 et seq. of ~~Title 17 of the Oklahoma Statutes~~ this title, including interexchange telecommunications companies or such other telecommunications companies as defined by OCC Rule OAC 165:55-1-4, resellers as defined by OCC Rule OAC 165:56-1-4 and operator service providers as defined by OCC Rule OAC 165:57-1-4; and

~~3. Any association or cooperative corporation doing business under the Rural Electric Cooperative Act except for generation and~~

~~transmission associations or cooperative corporations, or
transmission associations or cooperative corporations.~~

~~H. It is the intention of the Legislature that this entire
section is an amendment to and alteration of Sections 18 through 34,
inclusive, of Article IX of the Constitution of the State of
Oklahoma, as authorized by Section 35 of Article IX of said
Constitution~~ 1. In addition to the other fees assessed under the
provisions of this section, the Commission is hereby authorized to
assess upon each electric distribution company serving retail
electric consumers located in this state a fee of ten cents (\$0.10)
per month per electric meter for the purpose of providing scientific
weather forecasting data to allow electric service providers to
utilize advanced weather data to assist them in load forecasting and
hazard management thereby benefiting the citizens of this state by
enhancing the safety and reliability of the electric distribution
system.

2. The Commission is hereby authorized to contract with the
Oklahoma Climatological Survey to provide weather forecasting
services as outlined in paragraph 1 of this subsection. Such
contract shall provide the total funds collected by this assessment
shall be appropriated to the Oklahoma Climatological Survey.

3. The Oklahoma Climatological Survey shall utilize funds
resulting from the assessment created in this subsection for the
requirements necessary to operate and expand the Oklahoma Mesonet
Program. As a further requirement, the Oklahoma Climatological
Survey shall make available Oklahoma Mesonet services, at no cost,
to any person or entity located in this state who may desire to
utilize such services; provided, however, the Oklahoma
Climatological Survey or Oklahoma Mesonet shall not be required to
furnish any equipment to any entity or person in order to provide
such services.

4. Services provided by Oklahoma Mesonet may be purchased by any person or entity located outside this state.

5. Funds collected pursuant to this section shall be remitted in the same manner as provided for in subsection D of this section. Remitters shall provide a separate accounting of funds collected pursuant to this subsection and the funds shall be deposited in a subaccount of the Public Utility Regulation Revolving Fund.

SECTION 71. AMENDATORY 17 O.S. 1991, Section 250, is amended to read as follows:

Section 250. As used in this act:

1. "Affiliated person, subsidiary, firm or corporation" means any person, subsidiary, firm or corporation which:

- a. controls or is controlled by a public utility,
- b. is controlled by an entity that also controls the utility, or
- c. the utility or an entity controlling the utility has directly or indirectly the power to control;

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

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

4. "Fair field price" means the value attributed to gas produced from wells owned by a public utility, or a subsidiary or affiliate of a public utility, which shall be the going price paid by the utility, subsidiary or affiliate to others in the field where such production is located. If the utility, subsidiary or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary or affiliate in the nearest field where conditions are similar. The value to be attributed to

residue gas owned by a public utility, or a subsidiary or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary or affiliate to others from the same plant. If the utility, subsidiary or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary or affiliate at the nearest plant where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it;

5. "Fuel adjustment clause" means any mechanism which allows a public utility ~~or electric generating cooperative~~ to automatically adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel ~~for generation of electricity, purchased power~~ or purchased gas;

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

7. ~~"Line loss" means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system;~~

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

a. ~~producing, generating, transmitting, distributing, selling or furnishing electricity, or~~

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

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

SECTION 72. AMENDATORY 17 O.S. 1991, Section 251, as amended by Section 16, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1999, Section 251), is amended to read as follows:

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

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

fuel, ~~purchased power~~ or purchased gas as compared to the price of such fuels ~~or power~~ as reflected in the base rates.

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

1. For the purpose of determining fuel or gas costs, the price paid for the fuel or gas shall be computed at the actual cost of fuel or gas purchased from nonaffiliated persons, firms and corporations; ~~and the actual cost of the production of fuel owned by the public utility or received from affiliated persons, firms and corporations,~~ and in the case of gas, the fair field price for gas owned by the public utility or received from affiliated persons, firms or corporations;

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

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

~~4. The actual efficiency or heat rate of electric public utilities shall be utilized and line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return;~~

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

~~6.~~ 4. No estimated fuel adjustment shall be allowed.

SECTION 73. AMENDATORY 17 O.S. 1991, Section 252, is amended to read as follows:

Section 252. Whenever the Commission approves a fuel adjustment clause pursuant to this act, the clause shall apply to all similar public utilities affected by such increased costs. In addition, the Commission shall continually monitor and oversee the application of the fuel adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. If the Commission finds that the charges or credits are not based upon the actual prices paid for fuel, or purchased gas ~~or purchased power~~, or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits and shall direct the public utility to take such action as may be required to insure that the charges or credits properly reflect the actual prices paid for fuel, or purchased gas ~~or purchased power~~ and are properly computed in accordance with the applicable adjustment clause for the applicable period. The fuel adjustment clause may be amended upon a finding of changed circumstances by the Commission but shall not be

wholly discontinued or suspended except by order of the Commission after notice and hearings for the utilities affected have been rendered.

SECTION 74. AMENDATORY 17 O.S. 1991, Section 253, as amended by Section 9, Chapter 364, O.S.L. 1998 (17 O.S. Supp. 1999, Section 253), is amended to read as follows:

Section 253. A. No proposed monthly fuel adjustment, ~~purchased power adjustment~~ or purchased gas adjustment shall become effective until after the Corporation Commission has had an opportunity to determine that the adjustment is calculated in accordance with the terms and conditions of the applicable fuel adjustment clause.

B. The Commission shall promulgate rules requiring each company as a necessary part of the monthly filing with the Commission and condition to consideration of any adjustment application to submit the following information:

1. A statement by each company subject to a fuel adjustment clause of the items and costs making up the average cost of fuel per million BTU and associated costs in dollars and cents or fraction thereof;

2. A summary of its fuel and gas purchase invoices and its computations of the proposed monthly fuel adjustment or purchased gas adjustment charges;

3. A summary of inventory records of fuel and gas going into and taken out of stockpile or storage;

4. A report containing the average unit price, the change in the average unit price, the volume purchased and a brief explanation of such unit cost increase; and

5. Any other records deemed necessary by the Commission ~~including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric public utilities and the actual capacity factor for each generating facility utilized to produce~~

~~electric power.~~ The records and computations filed shall be open to public inspection at the office of the Commission.

C. The Commission shall have five (5) business days after the records and computations prescribed in subsection B of this section have been filed to determine the necessity of an administrative proceeding thereon. If the Commission does not determine that a hearing is required, the proposed adjustment charge shall become effective as filed. In the event the Commission decides to hold a hearing on the information filed, it shall notify the public utility within such five-day period, set the matter for a public hearing to commence within thirty (30) business days thereafter, and give notice thereof at least three (3) days prior to the commencement of such hearing by publication in a newspaper of general circulation in the area served by such company. The issue to be determined at such hearing shall be either or both of the following determinations:

1. Whether charges or credits made under the fuel adjustment clauses are based upon the actual prices paid for fuel, or purchased gas ~~or purchased power~~ and are properly computed in accordance with the applicable adjustment clause; or

2. Whether the fuel adjustment clauses should be discontinued, amended or suspended. In the event that the Commission determines that it is necessary to set any proposed adjustment charge for hearing, the proposed charge shall nevertheless become effective at the option of the utility following the expiration of the five-day period after its records and computations have been filed, pending the Commission's finding with respect to such charges. However, in the discretion of the Commission, the effectiveness of the proposed charge may be conditioned upon the filing by the utility with the Commission of an assurance satisfactory to the Commission, which may include a bond with surety, of the utility's ability and willingness to refund to its customers any such amounts as the utility may collect from them in excess of the charge approved by the Commission

in its finding. If the Commission has not approved, in whole or in part, or denied the proposed charge within a seven-day period subsequent to the commencement of such hearing, the Commission shall promptly submit a written explanation of the Commission's failure to do so to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the ~~office of the~~ Governor.

SECTION 75. 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~~ the Oklahoma Electric Restructuring Implementation 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 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 this section, the term "electric consuming facility" means everything that utilizes ~~electric energy from a central station source~~ electricity and is connected to the electric distribution system of an electric distributor.

SECTION 76. 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 77. AMENDATORY 11 O.S. 1991, Section 24-105, is amended to read as follows:

Section 24-105. Definitions. As used in this act the following words shall have the following meanings unless the context clearly indicates otherwise:

~~(a)~~ 1. "Authority" shall mean the Oklahoma Municipal Power Authority hereby created and any successor or successors thereto. Any change in name or composition of the Authority shall in no way affect the vested rights of any person under the provisions of this act or impair the obligations of any contracts existing under this act.;

~~(b)~~ 2. "Board of Directors" shall mean the Board of Directors elected by the election committee as set forth in Section 4 of this act which shall exercise all the powers and manage and control all the affairs and property of the Authority unless otherwise

specifically provided herein or in the bylaws of the Authority as in effect from time to time-;

~~(e)~~ 3. "Bonds" shall mean any revenue bonds, notes or other evidences of obligations of the Authority issued by the Authority under the provisions of this act, including, without limitation, bond anticipation notes and refunding bonds-;

~~(d)~~ 4. "Eligible public agency" shall mean any municipality, authority or other public body which owns, maintains or operates an electrical energy generation, transmission or distribution system within the State of Oklahoma ~~on the date on which this act becomes law-;~~

~~(e)~~ 5. "Person" shall mean (i) any natural person; (ii) any eligible public agency as defined herein; (iii) any public trust as defined herein; (iv) the United States, any state, any municipality, political subdivision, municipal corporation, unit of local government, governmental unit or public corporation created by or pursuant to the laws of the United States or any state, or any board, corporation or other entity or body declared by the laws of the United States or any state to be a department, agency or instrumentality thereof; (v) any corporation, not for profit corporation, firm, partnership, cooperative association, electric cooperative or business trust of any nature whatsoever organized and existing under the laws of the United States or any state; or (vi) any foreign country, any political subdivision or governmental unit of any foreign country or any corporation, not for profit corporation, firm, partnership, cooperative association, electric cooperative or business trust of any nature whatsoever organized and existing under the laws of any foreign country or of any political subdivision or governmental entity thereof.

~~(f)~~ 6. "Project" shall mean any plant, works, system, facilities and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, located

within or without the State of Oklahoma, used or useful in the generation, production, transmission, purchase, sale, exchange or interchange of electrical energy and in the acquisition, extraction, processing, transportation or storage or of fuel of any kind for any such purposes or any interest in, or right to the use, services, output or capacity, of any such plant, works, system or facilities; ~~provided, however, a.~~ A project shall not include (i) any interest in any plant for the generation of electrical energy which is to be owned jointly with any investor-owned utility if such plant is not existing on May 10, 1981, or (ii) any interest in any nuclear powered generating plant. For purposes of this definition, a plant shall be considered to be existing if construction shall have been commenced at the plant site, if orders have been placed for major components of equipment or if the plant is to consist of an additional unit at the site of an already existing unit which will use in common any of the existing facilities at such site.

~~(g)~~ 7. "Public trust" shall mean any public trust created and existing under the provisions of the Trusts for Furtherance of Public Functions Law, as provided by Sections 176 et seq. of Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as provided by Sections 175 et seq. of Title 60 of the Oklahoma Statutes, which has as its beneficiary a municipality and which owns, maintains or operates an electrical energy generation, transmission or distribution system serving the residents and consumers of such municipality and existing on the date on which this act becomes law or created hereafter with an eligible public agency as the beneficiary.

SECTION 78. AMENDATORY 11 O.S. 1991, Section 24-107, is amended to read as follows:

Section 24-107. (a) The Oklahoma Municipal Power Authority shall have and is hereby authorized to exercise all powers, rights and privileges enumerated in this section. Such powers, rights and

privileges shall be exercised by its Board of Directors unless otherwise specifically provided herein or by the bylaws of the Authority as in effect from time to time.

(b) The Authority may plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend or otherwise participate, individually or jointly with other persons, in one or more projects, proposed, existing or under construction, and may act as agent, or designate one or more persons, whether or not participating in a project, to act as its agent, in connection with the planning, financing, acquisition, construction, reconstruction, ownership, lease, operation, maintenance, repair, extension or improvement of the project.

(c) The Authority may investigate the desirability of and necessity for additional sources and supplies of electrical energy and fuel and other supplies of any kind for such purpose, and make studies, surveys and estimates as may be necessary to determine the feasibility and cost thereof.

(d) The Authority may cooperate with other persons in the development of sources and supplies of electrical energy and fuel and other supplies of any kind for such purposes, and give assistance with personnel and equipment in any project.

(e) The Authority may apply to any person for consents, authorizations or approvals required for any project within its powers and take all actions necessary to comply with the conditions thereof.

(f) The Authority may perform any act authorized by this act through, or by means of, its officers, agents or employees or by contract with any person, including, without limitation, the employment of engineers, architects, attorneys, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the Board of Directors, and fix and

pay their compensation from funds available to the Authority therefor.

(g) The Authority may acquire, hold, use and dispose of income, revenues, funds and money.

(h) The Authority may, individually or jointly with other persons, acquire, own, hire, use, operate and dispose of personal property and any interest therein.

(i) The Authority may, individually or jointly with other persons, acquire, own, use, lease as lessor or lessee, operate and dispose of real property and interests in real property, including projects existing, proposed or under construction, and make improvements thereon.

(j) The Authority may grant the use by franchise, lease or otherwise and make charges for the use of any property or facility owned or controlled by it.

(k) The Authority may borrow money and issue negotiable bonds, secured or unsecured, in accordance with this act.

(l) The Authority may invest money of the Authority not required for immediate use, including proceeds from the sale of any bonds.

(m) The Authority may exercise the power of eminent domain in accordance with the provisions of Section ~~10~~ 24-110 of this title.

(n) The Authority may determine the location and character of, and all other matters in connection with, any and all projects it is authorized to acquire, hold, establish, effectuate, operate or control.

(o) The Authority may contract with any person for the planning, development, construction, operation, sale or lease as lessor or lessee of any project or for any interest therein, on such terms and for such period of time as its Board of Directors shall determine.

(p) The Authority may contract with any eligible public agency, any public trust, or any other person for the sale of power and energy, transmission services, power supply development services or other services within or without the State of Oklahoma on such terms and conditions as the Board of Directors shall approve. Any such contract may be for the sale of output and services of a particular project or may be for output and services generally without regard to a specific project and may be for the supply of a specific quantity of output or a percentage of the output of a specific project or other specific facility or may be based on the requirements of the purchaser or may be on such other terms and conditions as the Board of Directors deems appropriate.

(q) The Authority may enter into any contract or agreement necessary, appropriate or incidental to the effectuation of its lawful purposes and the exercise of the powers granted by this act, including, without limitation, contracts or agreements for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or storage of electric power and energy, and fuel and other supplies of any kind for any such purposes, within and without the State of Oklahoma, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, on such terms and for such period of time as the Board of Directors determines.

(r) In any case in which the Authority participates in a project as a joint owner with one or more persons, the Authority may enter into an agreement or agreements with respect to such project with the other person or persons participating therein, and any such agreement may contain such terms, conditions and provisions consistent with the provisions of the act as the parties thereto shall deem to be in their best interest. Any such agreement may include, but need not be limited to, provisions defining what constitutes a default thereunder and providing for the rights and

remedies of the parties thereto upon the occurrence of such a default deemed appropriate by the Board of Directors including, to the extent deemed appropriate, the acquisition by nondefaulting parties of all or any part of the defaulting party's interest; provisions setting forth such restraints on alienation of the interests of the parties in the project as the Board of Directors deems appropriate; provisions for the construction, operation and maintenance of such electric generation or transmission facility by any one or more of the parties to such agreement which party or parties shall be designated in or pursuant to such agreement as agent or parties thereto or by such other means as may be determined by the parties thereto; and provisions for a method or methods of determining and allocating, among or between the parties, costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project. In exercising its power to participate in a project as a joint owner with one or more persons, the Authority may not loan its credit to any person which is a joint owner of such project; provided, however, the appropriate allocations of the costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project between the Authority and such persons shall not be a loan of credit by the Authority to such persons. In carrying out its functions and activities as such agent with respect to construction, operation and maintenance of a project, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating parties. Notwithstanding anything contained in any other law to the contrary, pursuant to the terms of any such agreement, the Authority may delegate its powers and duties with respect to the construction, operation and maintenance of such project to the person acting as agent; and all actions taken by such

agent in accordance with the provisions of such agreement may be made binding upon the Authority without further action or approval by the Authority.

(s) The Authority may procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable, or may self-insure against such losses.

(t) The Authority may contract for and accept any gifts, grants or loans of funds or property or financial or other aid in any form from any person, and may comply, subject to the provisions of this act, with the terms and conditions thereof.

(u) The Authority may adopt a corporate seal and may sue or be sued.

(v) The Authority may exercise all other powers not inconsistent with the Constitution of the State of Oklahoma or the United States Constitution, which powers may be reasonably necessary or appropriate for or incidental to effectuate its authorized purposes or to the exercise of any of the powers enumerated in this act.

(w) Notwithstanding any other provision herein seemingly to the contrary, the Authority may not sell output ~~(i)~~ at retail to the ultimate consumers thereof, ~~(ii) to any municipality which does not qualify as an eligible public agency under the definition set forth in Section 5(d) of this act, or (iii) or~~ or to any trust created and existing under the provisions of the Local Industrial Development Act, as provided by Sections 651 et seq. of Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of Public Functions Law, as provided by Sections 176 et seq. of Title 60 of the Oklahoma Statutes, which does not qualify as a public trust under the definition set forth in paragraph (g) of Section 5(g) 24-105 of this ~~act~~ title.

SECTION 79. AMENDATORY 11 O.S. 1991, Section 24-113, is amended to read as follows:

Section 24-113. The Oklahoma Municipal Power Authority may establish, levy and collect or may authorize, by contract, franchise, lease or otherwise, the establishment, levying and collection of rents, rates and other charges for the products and services afforded by the Authority or by or in connection with any project which it may construct, acquire, own, operate or control or with respect to which it may have any interest or any right to the products and services thereof as it may deem necessary, proper, desirable or reasonable. Rents, rates and other charges shall be at least sufficient to meet the operation, maintenance and other expenses thereof, including reasonable reserves, interest and principal payments, including payments into one or more sinking funds for the retirement of principal, to comply with all terms and provisions of the bond resolution, trust indenture or other security agreement relating to the bonds issued in connection with any project, to accumulate any excess income which may be required by the purchasers of such bonds or may be dictated by the requirements of such bond resolution, trust indenture or security agreement for achieving ready marketability of and low interest on such bonds and to generate funds sufficient to fulfill the terms of any other contracts or agreements made by the Authority. The Authority may pledge its rates, rents and other revenue, or any part thereof, as security for the repayment, with interest and premium, if any, of any monies borrowed by it or advanced to it for any of its authorized purposes and as security for the payment of amounts due and owing by it under any contract.

~~The Authority shall be exempt in any and all respects from the jurisdiction or control of the Oklahoma Corporation Commission.~~

Nothing herein shall be construed as depriving the State of Oklahoma of its power to regulate and control fees and/or charges to be

collected for the use of any products and services afforded by the Authority, provided, that the State of Oklahoma does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the power hereby vested in the Authority to establish, levy and collect such rents, rates and other charges as will produce revenue sufficient to meet the operation, maintenance and other expenses set forth in the preceding paragraph of this ~~Section 13~~ section, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the Authority in connection with such bonds are fully met and discharged.

SECTION 80. REPEALER 17 O.S. 1991, Sections 156, 157, 158.21, 158.21a, 158.22, 158.23, 158.24, 158.25, 158.26, 158.27, as amended by Section 1, Chapter 231, O.S.L. 1993, 158.28, 158.29, 158.30, 158.31, 158.32, 158.50, 158.51, 158.52, 158.53, 158.54, 158.55, 158.56, 158.57, 158.58, 158.59, as last amended by Section 64, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 158.60, 158.61, 161.1, Section 1, Chapter 132, O.S.L. 1993, 181, 182, 183, 184, 185, 186, 187, 188, 189, Sections 1 and 2, Chapter 162, O.S.L. 1997, Sections 3, 4 and 5, Chapter 162, O.S.L. 1997, as amended by Sections 3, 4 and 5, Chapter 391, O.S.L. 1998, Section 6, Chapter 162, O.S.L. 1997, as last amended by Section 6, Chapter 391, O.S.L. 1998, Section 7, Chapter 162, O.S.L. 1997, as amended by Section 7, Chapter 391, O.S.L. 1998, 191.1, 191.2, 191.3, 191.4, 191.5, 191.6, 191.7, 191.8, 191.9, 191.10, 191.11, as last amended by Section 65, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, 257, as amended by Section 10, Chapter 364, O.S.L. 1998, 258, 259, 260 and 261 (17 O.S. Supp. 1999, Sections 158.27, 158.59, 163.1, 190.1, 190.2,

190.3, 190.4, 190.5, 190.6, 190.7, 191.11 and 257), are hereby repealed.

SECTION 81. REPEALER 68 O.S. 1991, Sections 1802 and 1803, are hereby repealed.

SECTION 82. Sections 22, 23, 24, 25, 26, 30, 32, 33, 35-56 and 65-79 of this act shall become effective July 1, 2000.

SECTION 83. 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.

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