

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 831

By: Bingman and Mazzei of the
Senate

3
4 and

5 Martin (Scott) of the
6 House

7
8
9 (nuclear energy - construct nuclear power plant -
10 codification - noncodification - repealer -
11 effective date)

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14 AUTHOR: Add the following House Coauthor: Reynolds

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

17 "(nuclear energy - construct nuclear power plant -
18 codification - repealer -
19 effective date)

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21
22 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

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1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 180.21 of Title 17, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Next Generation
5 Energy Security and Reliability Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 180.22 of Title 17, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in the Next Generation Energy Security and Reliability
10 Act:

11 1. "Public utility" or "utility" means any corporation
12 organized or doing business in this state that now owns or hereafter
13 may own, operate, or manage any plant or equipment for the
14 manufacture, production, transmission, delivery, or of furnishing
15 electric current for light, heat, or power to the public;

16 2. "Nuclear power plant", "power plant" or "plant" means any
17 physical facility, plant, or equipment for the generation or
18 production of electricity or electric power using nuclear materials
19 as a source of fuel, power, or energy; and

20 3. "Commission" shall mean the Corporation Commission of the
21 State of Oklahoma.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 180.23 of Title 17, unless there
24 is created a duplication in numbering, reads as follows:

1 A. An electric utility subject to rate regulation by the
2 Corporation Commission, or other lawfully organized electric service
3 provider, may elect to file an application seeking a determination
4 of need to construct a nuclear power plant. The Commission shall
5 enter an order on an application filed pursuant to this subsection
6 within one hundred eighty (180) days of the filing of the
7 application, following notice and hearing.

8 B. The Commission shall be the sole forum for the determination
9 of this matter and the issues addressed in the application, which
10 accordingly shall not be reviewed in any other forum, or in the
11 review of proceedings in such other forum.

12 C. In determining whether there is a need for the nuclear power
13 plant, the Commission shall consider, at a minimum, the cost of
14 power and energy from the nuclear power plant compared to
15 alternatives, the benefits of fuel diversity, and other operational
16 and cost considerations the Commission deems relevant and necessary.

17 D. The application shall include:

18 1. The reasons why the utility is proposing to build the
19 nuclear power plant, including the utility's power needs for power
20 and the cost of nuclear power compared to alternatives over the life
21 of the facility;

22 2. A description of how the proposed nuclear power plant will
23 enhance the reliability of electric power production within the
24 state and improve the balance of power plant fuel diversity;

1 3. A nonbinding estimate of the cost of the nuclear power
2 plant, including any costs associated with new, enlarged, or
3 relocated electrical transmission lines or facilities that are
4 necessary for the nuclear power plant to deliver power and energy;

5 4. The annualized base revenue requirement for the first twelve
6 (12) months of operation of the nuclear power plant; and

7 5. A report of any discussions with other electric utilities
8 regarding the potential of joint ownership of the nuclear power
9 plant.

10 E. In making its determination, the Commission shall take into
11 account any matters within its jurisdiction, which it deems
12 relevant, including whether the nuclear power plant will:

13 1. Provide needed capacity and energy;

14 2. Enhance the reliability of electric power production within
15 the state and the Southwest Power Pool by improving the balance of
16 fuel diversity for electric generation facilities; and

17 3. Provide a cost-effective source of energy, taking into
18 account the need to reduce air emission compliance costs, and
19 enhance the long-term stability and reliability of the electric
20 grid.

21 F. Any rule of the Commission regarding competitive
22 procurement, including provisions for cost recovery, shall be
23 modified for the scope of a facility such as a nuclear power plant
24 authorized by this act. A utility shall not be required to secure

1 competitive proposals for power supply prior to making application
2 under this act or receiving a determination of need from the
3 Commission.

4 G. The final order of the Commission determining the need for
5 construction of a nuclear power plant, including any order on
6 reconsideration, shall be reviewable on appeal to the State Supreme
7 Court. Since delay in the determination of need will delay siting
8 of a nuclear power plant or diminish the opportunity for savings to
9 customers under the federal Energy Policy Act of 2005, the Supreme
10 Court shall proceed to hear and determine the action as
11 expeditiously as practicable and give the action precedence over
12 matters not accorded similar precedence by law.

13 H. Following the final order by the Commission approving the
14 determination of need for the nuclear power plant and until the
15 commencement of commercial operation of the nuclear power plant, the
16 utility shall annually report to the Commission the budgeted and
17 actual costs of the nuclear power plant as compared to the estimated
18 in-service costs of the nuclear power plant provided by the utility
19 as required by this act.

20 SECTION 4. AMENDATORY 11 O.S. 2001, Section 24-105, is
21 amended to read as follows:

22 Section 24-105. As used in ~~this act the following words shall~~
23 ~~have the following meanings unless the context clearly indicates~~
24 ~~otherwise~~ the Oklahoma Municipal Power Authority Act:

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

7 ~~(b)~~ 2. "Board of Directors" ~~shall mean~~ means the Board of
8 Directors elected by the election committee as set forth in Section
9 4 24-104 of this ~~act~~ title which shall exercise all the powers and
10 manage and control all the affairs and property of the Authority
11 unless otherwise specifically provided herein or in the bylaws of
12 the Authority as in effect from time to time.

13 ~~(c)~~ 3. "Bonds" ~~shall mean~~ means any revenue bonds, notes or
14 other evidences of obligations of the Authority issued by the
15 Authority under the provisions of this act, including, without
16 limitation, bond anticipation notes and refunding bonds.

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

22 ~~(e)~~ 5. "Person" ~~shall mean~~ ~~(i)~~ means:

23 a. any natural person; ~~(ii)~~,

24 b. any eligible public agency as defined herein; ~~(iii)~~,

1 c. any public trust as defined herein, ~~(iv)~~,

2 d. the United States, any state, any municipality,
3 political subdivision, municipal corporation, unit of
4 local government, governmental unit or public
5 corporation created by or pursuant to the laws of the
6 United States or any state, or any board, corporation
7 or other entity or body declared by the laws of the
8 United States or any state to be a department, agency
9 or instrumentality thereof, ~~(v)~~,

10 e. any corporation, not for profit corporation, firm,
11 partnership, cooperative association, electric
12 cooperative or business trust of any nature whatsoever
13 organized and existing under the laws of the United
14 States or any state, or ~~(vi)~~

15 f. any foreign country, any political subdivision or
16 governmental unit of any foreign country or any
17 corporation, not for profit corporation, firm,
18 partnership, cooperative association, electric
19 cooperative or business trust of any nature whatsoever
20 organized and existing under the laws of any foreign
21 country or of any political subdivision or
22 governmental entity thereof.

23 ~~(f)~~ 6. "Project" shall ~~mean~~ means any plant, works, system,
24 facilities and real and personal property of any nature whatsoever,

1 together with all parts thereof and appurtenances thereto, located
2 within or without the State of Oklahoma, used or useful in the
3 generation, production, transmission, purchase, sale, exchange or
4 interchange of electrical energy and in the acquisition, extraction,
5 processing, transportation or storage ~~or~~ of fuel of any kind for any
6 such purposes or any interest in, or right to the use, services,
7 output or capacity, of any such plant, works, system or facilities,
8 ~~provided, however, a project shall not include (i) any interest in~~
9 ~~any plant for the generation of electrical energy which is to be~~
10 ~~owned jointly with any investor owned utility if such plant is not~~
11 ~~existing on May 10, 1981, or (ii) any interest in any nuclear~~
12 ~~powered generating plant. For purposes of this definition, a plant~~
13 ~~shall be considered to be existing if construction shall have been~~
14 ~~commenced at the plant site, if orders have been placed for major~~
15 ~~components of equipment or if the plant is to consist of an~~
16 ~~additional unit at the site of an already existing unit which will~~
17 ~~use in common any of the existing facilities at such site.~~

18 ~~(g)~~ 7. "Public trust" ~~shall mean~~ means any public trust created
19 and existing under the provisions of the Trusts for Furtherance of
20 Public Functions Law, as provided by ~~Sections~~ Section 176 et seq. of
21 Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as
22 provided by ~~Sections 175~~ Section 175.1 et seq. of Title 60 of the
23 Oklahoma Statutes, which has as its beneficiary a municipality and
24 which owns, maintains or operates an electrical energy generation,

1 transmission or distribution system serving the residents and
2 consumers of such municipality and existing on the date on which
3 this act becomes law or created hereafter with an eligible public
4 agency as the beneficiary.

5 SECTION 5. REPEALER 11 O.S. 2001, Sections 24-105.1 and
6 24-117, are hereby repealed.

7 SECTION 6. This act shall become effective November 1, 2010."

8 Passed the House of Representatives the 22nd day of April, 2010.

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Presiding Officer of the House of
Representatives

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Passed the Senate the ____ day of _____, 2010.

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Presiding Officer of the Senate

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