

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 4TH CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 828

6 By: Marlatt, Branan, Garrison,
7 Johnson (Constance),
8 Burrage, Schulz, Sparks and
9 Ivester of the Senate

10 and

11 Blackwell, Ortega and
12 Walker of the House

13 4TH CONFERENCE COMMITTEE SUBSTITUTE

14 An Act relating to public utilities; amending 17 O.S.
15 2001, Section 151, which relates to public utilities;
16 modifying definition for certain public utilities
17 relating to electricity transmission facilities; and
18 amending 17 O.S. 2001, Section 152, which relates to
19 Corporation Commission jurisdiction over public
20 utilities; clarifying application; and declaring an
21 emergency.

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

23 SECTION 1. AMENDATORY 17 O.S. 2001, Section 151, is
24 amended to read as follows:

25 Section 151. A. The term "public utility" as used in Sections
26 151 through 155 of this title, shall be taken to mean and include
27 every corporation, association, company, individuals, their
28 trustees, lessees, or receivers, successors or assigns, except as
29 hereinafter provided, and except cities, towns, or other bodies
30 politic, that now or hereafter may own, operate, or manage any plant

1 or equipment, or any part thereof, directly or indirectly, for
2 public use, or may supply any commodity to be furnished to the
3 public-:

4 ~~(a)~~ 1. For the conveyance of gas by pipeline-;

5 ~~(b)~~ 2. For the production, transmission, delivery or furnishing
6 of heat or light with gas-;

7 ~~(c)~~ 3. For the production, transmission, delivery or furnishing
8 electric current for light, heat or power-; or

9 ~~(d)~~ 4. For the transportation, delivery or furnishing of water
10 for domestic purposes or for power.

11 Provided further that a corporation organized and existing not
12 for profit pursuant to Title 18 of the Oklahoma Statutes, Sections
13 851-863, but for the purpose of developing and providing rural water
14 supply and sewage disposal facilities to serve rural residents shall
15 not be declared a public utility under this act, and shall be exempt
16 in any and all respects from the jurisdiction and control of the
17 Corporation Commission of this state.

18 B. The term "public utility" as in used in Sections 151 through
19 155 of this title, shall also mean and include every corporation,
20 association, company, individuals, their trustee, lessee, receiver,
21 successor or assign not otherwise subject to the provisions of
22 subsection A of this section, that own, operate, or manage any plant
23 or equipment, or any part thereof for the transmission of
24 electricity within, in or out of the state, and which is a public

1 utility as defined by Section 201 of the Federal Power Act subject
2 to regulation by the Federal Energy Regulatory Commission, in which
3 case the Corporation Commission shall have authority over same,
4 except as otherwise preempted by federal law. This subsection shall
5 not apply to cities, towns, other political subdivisions, or
6 entities otherwise specifically exempted by state law from the
7 jurisdiction of the Corporation Commission.

8 C. The term "Commission" shall be taken to mean Corporation
9 Commission of Oklahoma.

10 Provided, that, in Washington County, where any corporation,
11 association, company, individuals, their trustees, lessees, or
12 receivers, successors or assigns, is engaged in the private business
13 of manufacturing any products other than those hereinbefore defined,
14 and in the manufacture of such products operate and maintain private
15 electric or water plants for its own power and electrical energy or
16 water used in its manufacturing plant, without the right of eminent
17 domain and without the use of streets, highways or public property,
18 it may contract upon terms and prices approved by Corporation
19 Commission the sale of a bona fide surplus of electrical energy or
20 water developed in such private plants to any public utility engaged
21 in manufacturing and distributing electrical energy in Washington
22 County, Oklahoma, without becoming a public utility. Provided
23 further any city or town within a county having a population of over
24 five hundred thousand (500,000) or any county having a population of

1 over five hundred thousand (500,000), according to the 1970 Federal
2 Census, which is a beneficiary of a public trust that has multiple
3 beneficiaries and that includes within any or all of its boundaries
4 a water supply and/or distribution system, or any portion thereof,
5 shall have the authority to condemn all or any portion of any water
6 supply and/or distribution system owned and/or operated and/or
7 leased by a public trust within the limits of the condemning city or
8 town or within the unincorporated areas of the condemning county;
9 provided the power granted hereunder shall not be exercised until
10 the condemning city, town or county shall have made provision to pay
11 off all outstanding bonded indebtedness incurred by the public
12 trust, including interest on the bonds to maturity of the bonds, or
13 first call date, and premium, if any, to which the property to be
14 condemned or the revenues therefrom has been pledged for security.

15 SECTION 2. AMENDATORY 17 O.S. 2001, Section 152, is
16 amended to read as follows:

17 Section 152. A. The Commission shall have general supervision
18 over all public utilities, with power to fix and establish rates and
19 to prescribe and promulgate rules, requirements and regulations,
20 affecting their services, operation, and the management and conduct
21 of their business; shall inquire into the management of the business
22 thereof, and the method in which same is conducted. The provisions
23 of this section shall not be applicable to generation and
24 transmission associations or cooperative associations, or

1 transmission associations or cooperative associations, as those
2 terms are used in Section 158.27 of this title.

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

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

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

17 4. If such request for review of the applicant's rates and
18 charges has not been completed and an order issued within one
19 hundred eighty (180) days from the date of filing of such
20 application, some or all of the request for changes in the rates,
21 charges, and regulations made in such application shall be
22 immediately placed into effect and collected through new tariffs on
23 an interim basis at the discretion of the applicant.

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

8 C. The Commission shall have full visitorial and inquisitorial
9 power to examine such public utilities, and keep informed as to
10 their general conditions, their capitalization, rates, plants,
11 equipments, apparatus, and other property owned, leased, controlled
12 or operated, the value of same, the management, conduct, operation,
13 practices and services; not only with respect to the adequacy,
14 security and accommodation afforded by their service, but also with
15 respect to their compliance with the provisions of this act, and
16 with the Constitution and laws of this state, and with the orders of
17 the Commission.

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

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