

ENROLLED SENATE
BILL NO. 828

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

and

Blackwell, Ortega, Walker,
Hoskin and Tibbs of the
House

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

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

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

Section 151. A. 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)~~ 1. For the conveyance of gas by pipeline-;

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

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

~~(d)~~ 4. 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 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.

B. The term "public utility" as used in Sections 151 through 155 of this title, shall also mean and include every corporation, association, company, individuals, their trustee, lessee, receiver, successor or assign not otherwise subject to the provisions of subsection A of this section, that own, operate, or manage any plant or equipment, or any part thereof for the transmission of electricity within, in or out of the state, and which is a public utility as defined by Section 201 of the Federal Power Act subject to regulation by the Federal Energy Regulatory Commission, in which case the Corporation Commission shall have authority over same, except as otherwise preempted by federal law. This subsection shall not apply to cities, towns, other political subdivisions, bodies politic, the Grand River Dam Authority or the Oklahoma Municipal Power Authority or entities otherwise specifically exempted by state law from the jurisdiction of the Corporation Commission.

C. The term "Commission" shall be taken to mean 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 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 2. AMENDATORY 17 O.S. 2001, Section 152, is amended to read as follows:

Section 152. A. The 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. The provisions of this section shall not be applicable to generation and transmission associations or cooperative associations, or

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

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, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy,

security and accommodation afforded by their service, but also with respect to their compliance with the provisions of this act, and with the Constitution and laws of this state, and with the orders of the Commission.

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

Passed the Senate the 24th of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2010.

Presiding Officer of the House
of Representatives