

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 709

By: Sparks

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6 AS INTRODUCED

7 An Act relating to electric generating public  
8 utilities; creating the Oklahoma Clean Jobs Act of  
9 2013; providing short title; stating legislative  
10 findings; requiring utilities to submit certain  
11 emission reduction plans to the Corporation  
12 Commission by certain date; stating requirements for  
13 plans; requiring consultation with Commission;  
14 authorizing state agencies to comment on plans;  
15 providing for utilities to recover certain costs;  
16 authorizing Commission to implement cost recovery  
17 mechanisms; authorizing Commission to promulgate  
18 rules and make legislative recommendations; providing  
19 for codification; providing for noncodification; and  
20 declaring an emergency.

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

25 SECTION 1. NEW LAW A new section of law to be codified  
26 in the Oklahoma Statutes as Section 289.1 of Title 17, unless there  
27 is created a duplication in numbering, reads as follows:

28 This act shall be known and may be cited as the "Oklahoma Clean  
29 Jobs Act of 2013".

30 SECTION 2. NEW LAW A new section of law to be codified  
31 in the Oklahoma Statutes as Section 289.2 of Title 17, unless there  
32 is created a duplication in numbering, reads as follows:

1       A. The Legislature finds, determines and declares that the  
2 Federal Clean Air Act, 42 U.S.C. Section 7401 et seq., will likely  
3 require reductions in emissions from coal-fired power plants  
4 operated by rate-regulated utilities located in this state and under  
5 the jurisdiction of the Corporation Commission. A coordinated plan  
6 of emission reductions from these coal-fired power plants will  
7 enable Oklahoma rate-regulated utilities to meet the requirements of  
8 the federal act and protect public health and the environment at a  
9 lower cost than a piecemeal approach. A coordinated plan of  
10 reduction of emissions for Oklahoma's rate-regulated utilities will  
11 also result in reductions in many air pollutants and promote the use  
12 of natural gas and other low-emitting resources to meet our state's  
13 electricity needs, which will in turn promote development of our  
14 state's economy and industry.

15       B. The Legislature further finds the use of natural gas to  
16 reduce coal-fired emissions may require rate-regulated utilities to  
17 enter into long-term contracts for natural gas in a manner that  
18 protects electricity consumers. Even though such long-term  
19 contracts might be beneficial to consumers, financial rating  
20 agencies could find that such contracts increase the financial risk  
21 to rate-regulated utilities, which in turn could increase the cost  
22 of capital to these utilities. The Legislature finds that it is  
23 important to give financial markets confidence that utilities will

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1 be able to recover the costs of long-term gas contracts without the  
2 risk of future regulators disallowing contracts.

3 C. The Legislature further finds and declares that Oklahoma  
4 rate-regulated utilities require timely and forward-looking reviews  
5 of their costs of providing utility service in order to undertake  
6 the comprehensive and extensive planning and changes to their  
7 business operations contemplated by this act. In order to allow  
8 these utilities to continue to provide reliable electric service,  
9 alter their operations in the manner described herein, and meet  
10 other state public policy goals, it is imperative that Oklahoma  
11 rate-regulated utilities continue in sound financial condition and  
12 remain attractive investments so that sufficient capital is provided  
13 to achieve the state's goals. To that end, the Legislature finds  
14 that the Corporation Commission should have additional tools and  
15 more flexibility in its regulatory authority to ensure the continued  
16 financial health of our state's utility providers.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 289.3 of Title 17, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. On or before August 15, 2014, and in coordination with  
21 current or expected requirements of the Federal Clean Air Act, all  
22 rate-regulated utilities that own or operate coal-fired electric  
23 generating units located in this state shall submit to the  
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1 Corporation Commission an emission reduction plan for emissions from  
2 those units.

3 B. 1. The plan filed under this section shall cover a minimum  
4 of fifty percent (50%) of the utility's coal-fired electric  
5 generating units located in this state but shall not include any  
6 coal-fired capacity that the utility has already announced it plans  
7 to retire prior to January 1, 2015. At the utility's discretion,  
8 the plan may include some or all of the following elements:

- 9 a. new emission control equipment for oxides of nitrogen  
10 and other pollutants,
- 11 b. retirement of coal-fired units, if the retired coal-  
12 fired units are replaced by natural gas-fired electric  
13 generation or other low-emitting resources, including  
14 energy efficiency,
- 15 c. conversion of coal-fired generation to operate on  
16 natural gas,
- 17 d. long-term fuel supply agreements,
- 18 e. new natural gas pipelines and other supporting gas  
19 infrastructure,
- 20 f. increased utilization of existing gas-fired generating  
21 capacity,
- 22 g. new transmission lines and other supporting  
23 transmission infrastructure,

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1 h. emission control equipment that is required to be  
2 installed at affected units prior to or in conjunction  
3 with any retirement, conversion, or emission control  
4 equipment retrofit set forth under the plan in order  
5 to limit any pollutant other than oxides of nitrogen,  
6 and

7 i. any other capital, fuel, and operations and  
8 maintenance expenditures appropriate to support the  
9 implementation of the plan.

10 B. 1. Prior to filing the plan, the utility shall consult with  
11 the Commission and shall work with the Commission in good faith to  
12 design a plan to meet the current and reasonably foreseeable  
13 requirements of the federal act and state law in a cost-effective  
14 and flexible manner.

15 2. The Commission shall provide an opportunity for the  
16 Department of Environmental Quality, the State Department of Health  
17 and any other state environmental agency an opportunity to:

18 a. comment on the air quality, all other pollutants, and  
19 other emission reductions of the plan, and

20 b. evaluate and determine whether the plan is consistent  
21 with the current and reasonably foreseeable  
22 requirements of the federal act.

23 3. The Commission shall not approve a plan except after an  
24 evidentiary hearing.

1 C. The plan shall include a schedule that would result in full  
2 implementation of the plan on or before December 31, 2017. The  
3 schedule may include interim milestones. The utility shall design  
4 the schedule to protect system reliability, control overall cost,  
5 and assure consistency with the requirements of the federal act.

6 D. The plan shall set forth the costs associated with  
7 activities identified in the plan, including the planning,  
8 development, construction, and operation of elements identified in  
9 this section, as well as the costs of any shutdown, decommissioning,  
10 or repowering of existing coal-fired electric generating units that  
11 are set forth in the plan.

12 SECTION 4. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 289.4 of Title 17, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. A utility is entitled to recover the costs that it prudently  
16 incurs in executing an approved emission reduction plan pursuant to  
17 the requirements of this act, including the costs of planning,  
18 developing, constructing, operating, and maintaining any emission  
19 control or replacement capacity constructed pursuant to the plan, as  
20 well as any interim air quality emission control costs the utility  
21 incurs while the plan is being implemented.

22 B. To that end, the Corporation Commission is authorized to  
23 employ rate-making mechanisms, in addition to allowing a current  
24 return on construction work in progress, that permit rate

1 adjustments, no less frequently than once per year, without  
2 requiring the utility to file a general rate case to allow recovery  
3 of the approved plan's costs. Such rate-making mechanisms may  
4 include a separate rate adjustment clause or other appropriate  
5 mechanisms as determined appropriate by the Commission.

6 SECTION 5. NEW LAW A new section of law not to be  
7 codified in the Oklahoma Statutes reads as follows:

8 A. The Corporation Commission is authorized to promulgate any  
9 rules necessary to implement the provisions of this act.

10 B. The Commission is further directed to make any legislative  
11 recommendations they deem necessary and appropriate to enact or  
12 amend current statutes to further implement the provisions of this  
13 act. Such recommendations shall be submitted to the President Pro  
14 Tempore of the Senate and the Speaker of the House of  
15 Representatives no later than December 1, 2013.

16 SECTION 6. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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