STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1416 By: Smalley

AS INTRODUCED

An Act relating to renewable energy; amending 17 O.S. 2011, Section 190.4, which relates to the Joint Electric Utility Task Force; deleting reference to Joint Electric Utility Task Force; transferring certain duties to the Corporation Commission relating to Oklahoma Energy Security Act; modifying intent; providing for use of certain Oklahoma produced qualified renewable resources for certain purposes; deleting obsolete language and requirements for task force; modifying framework for Commission relating to renewable energy; authorizing Commission to promulgate rules establishing certain distribution access fee; stating restriction; amending 17 O.S. 2011, Section 287, which relates to development of wind energy; modifying legislative intent relating to transmission and distribution grid; extending date for certain reports; amending 17 O.S. 801.3, 801.4, as amended by Section 1, Chapter 101, O.S.L. 2015 and 801.6 (17 O.S. Supp. 2015, Section 801.4), which relate to the Oklahoma Energy Security Act; modifying definitions; defining terms; modifying legislative intent; extending date for certain renewable energy standard goal; deleting reference to certain renewable resource; requiring submission of certain energy conservation measurements to be submitted to the Corporation Commission by certain date; declaring certain interconnection to electric distribution system to be in the public interest; stating restrictions; stating legislative intent relating to development of certain charges; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 17 O.S. 2011, Section 190.4, is amended to read as follows:

Section 190.4. A. To ensure ~~an~~ the orderly and equitable ~~restructuring~~ operation and management of the electric utility industry in this state and achieve the goals outlined in Section ~~190.2~~ 801 et seq. of this title, the Legislature hereby directs the ~~Joint Electric Utility Task Force to undertake a study of all relevant issues relating to restructuring the electric utility industry in this state including, but not limited to, those issues set forth in this section, and develop a proposed electric utility industry restructuring framework for the State of Oklahoma. The Joint Electric Utility Task Force shall address appropriate steps to achieve an orderly transition to a competitive market and may include in addition to the directives in this act other provisions as the task force shall deem necessary and appropriate to expedite the transition to full consumer choice. The~~ Corporation Commission ~~shall~~ to assist ~~the task force~~ in achieving the goals outlined in the ~~Electric Restructuring Act of 1997; provided, however, during the transition period to full consumer choice, the Corporation Commission is expressly prohibited from promulgating any rules or issuing any orders relating to the restructuring of Oklahoma's electric utility industry without prior express authorization by the Oklahoma State Legislature~~ Oklahoma Energy Security Act.

B. It is the intent of the Legislature that the following principles and directives be adhered to in developing a framework for a ~~restructured~~ reliable and safe electric utility industry:

1. Reliability and safety. Appropriate rules shall be promulgated, in accordance with the provisions of this act, ensuring that reliable and safe electric service is maintained;

2. ~~Competition. Competitive markets are to be encouraged to the greatest extent possible. Regulation should serve as a substitute only in those circumstances where competition cannot provide results that serve the best interests of all consumers;~~

~~3.~~ Consumer choice. Consumers shall be allowed to ~~choose among retail electric energy suppliers to help ensure fully competitive and innovative markets~~ acquire qualified renewable resources, as defined in Section 4 of this act and which are produced in this state, from wholesale suppliers to supplement but not totally replace energy provided by their retail electric supplier. A process should be established whereby all retail consumers are permitted to ~~choose~~ utilize the distribution of their retail electric energy suppliers to deliver wholesale electricity from qualified renewable resources produced in this state by July 1, ~~2002~~ 2017. Consumer choice means that retail electric consumers shall be allowed to purchase different levels and quality of wholesale renewable electric supply from ~~a variety of retail electric energy suppliers~~ generation produced by qualified renewable resources in

Oklahoma and that every ~~seller~~ buyer of such renewable electric generation in the retail market shall have nondiscriminatory open access to the electric distribution system of ~~every~~ their retail electric service distributor~~, subject to this act~~ for delivery of such qualified renewable resource. The Corporation Commission should ensure that unnecessary duplication of distribution facilities does not occur and that consumer confusion will be minimized and consumers will be well informed about changes resulting from ~~restructuring and increased choice~~ such use;

~~4. Regulation and unbundling of services. Entities which own both transmission and distribution, as well as generation facilities, shall not be allowed to use any monopoly position in these services as a barrier to competition. Generation services may be subject to minimal regulation and shall be functionally separated from transmission and distribution services, which services shall remain regulated. All retail electric energy suppliers shall be required to meet certain minimum standards designed to ensure reliability and financial integrity, and be registered with the Corporation Commission;~~

~~5. Unbundling of rates. When consumer choice is introduced, rates shall be unbundled to provide clear price information on the components of generation, transmission and distribution and any other ancillary charges. Electric bills for all classes shall be unbundled, utilizing line itemization to reveal the various~~

~~component cost of providing electrical services. Charges for public benefit programs currently authorized by statute or the Commission, or both, shall be unbundled and appear in line item format on electric bills for all classes of consumers;~~

~~6~~ 3. Open access to ~~transmission and~~ distribution facilities. Consumer access to ~~alternative suppliers of~~ wholesale Oklahoma qualified renewable electricity requires ~~open~~ access to the ~~transmission grid and the~~ distribution system. ~~Comparability shall be assured for retail electric energy suppliers competing with affiliates of entities supplying transmission and distribution services.~~ The Corporation Commission shall monitor companies providing ~~transmission and~~ distribution services and take necessary measures to ensure that no supplier of such services has an unfair advantage in offering and pricing such services;

~~7~~ 4. Obligation to connect and establishment of firm service territories. An entity providing distribution services shall ~~be relieved of its traditional obligation to provide electric supply but shall~~ have a continuing obligation to provide distribution service for all consumers in its service territory~~. As part of the restructuring process firm service territories shall be fixed by a date certain, if not currently established by law in order~~ to avoid wasteful duplication of distribution facilities; and

~~8. Independent system planning committee. The benefits associated with implementing an independent system planning~~

~~committee composed of owners of electric distribution systems to develop and maintain planning and reliability criteria for distribution facilities shall be evaluated;~~

~~9. Consumer safeguards. Minimum residential consumer service safeguards and protections shall be ensured including programs and mechanisms that enable residential consumers with limited incomes to obtain affordable essential electric service, and the establishment of a default provider or providers for any distribution customer who has not chosen an alternative retail electric energy supplier;~~

~~10. Establishment of a transition period. A defined period for the transition to a restructured electric utility industry shall be established. The transition period shall reflect a suitable time frame for full compliance with the requirements of a restructured utility industry;~~

~~11. Rates for service. Electric rates for all consumer classes shall not rise above current levels throughout the transition period. If possible, electric rates for all consumers shall be lowered when feasible as markets become more efficient in a restructured industry;~~

~~12~~ 5. Establishment of a distribution access fee. The ~~task force~~ Corporation Commission shall ~~consider~~ promulgate rules regarding the establishment of a distribution access fee to be assessed to all consumers seeking delivery of renewable wholesale electricity generated in the State of Oklahoma connected to electric

distribution systems ~~regulated by the Corporation Commission~~. This fee shall be charged to cover social costs, capital costs, operating costs, and other appropriate costs associated with the operation of electric distribution systems and the provision of electric service to the retail consumer but in no case shall such fee exceed the costs the retail electric supplier includes in its filed tariffs for the distribution of its own electricity~~;~~

~~13. Recovery of stranded costs. Electric utilities have traditionally had an obligation to provide service to consumers within their established service territories and have entered into contracts, long-term investments and federally mandated co-generation contracts to meet the needs of consumers. These investments and contracts have resulted in costs which may not be recoverable in a competitive restructured market and thus may be "stranded". Procedures shall be established for identifying and quantifying stranded investments and for allocating costs and mechanisms shall be proposed for recovery of an appropriate amount of prudently incurred, unmitigable and verifiable stranded costs and investments. As part of this process, each entity shall be required to propose a recovery plan which establishes its unmitigable and verifiable stranded costs and investments and a limited recovery period designed to recover such costs expeditiously, provided that the recovery period and the amount of qualified transition costs shall yield a transition charge which shall not cause the total~~

~~price for electric power, including transmission and distribution services, for any consumer to exceed the cost per kilowatt-hour paid on April 25, 1997, during the transition period. The transition charge shall be applied to all consumers including direct access consumers, and shall not disadvantage one class of consumer or supplier over another, nor impede competition and shall be allocated over a period of not less than three (3) years nor more than seven (7) years; and~~

~~14. Transition costs. All transition costs shall be recovered by virtue of the savings generated by the increased efficiency in markets brought about by restructuring of the electric utility industry. All classes of consumers shall share in the transition costs~~.

~~C. The study of all relevant issues related to electric industry restructuring shall be divided into four parts, as follows: independent system operator issues, technical issues, financial issues and consumer issues. All studies created pursuant to this section shall be conducted under the direction of the Joint Electric Utility Task Force. The task force shall direct the Corporation Commission, the Oklahoma Tax Commission, any other state agency or consultant as necessary to assist the task force in the completion of such studies.~~

~~1. The Commission shall commence the study of independent system operator issues no later than July 1, 1997, and provide a~~

~~final report to the Joint Electric Utility Task Force no later than February 1, 1998. Such report shall be in writing and shall make recommendations as the Commission deems necessary and appropriate regarding the establishment of an independent system operator in the State of Oklahoma or the appropriate region.~~

~~2. No later than July 1, 1998, the Joint Electric Utility Task Force shall commence the study of technical issues related to the restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:~~

~~a. reliability and safety,~~

~~b. unbundling of generation, transmission and distribution services,~~

~~c. market power,~~

~~d. open access to transmission and distribution,~~

~~e. transition issues, and~~

~~f. any other technical issues the task force deems appropriate.~~

~~A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.~~

~~3. No later than July 1, 1998, the Joint Electric Utility Task Force shall commence the study of financial issues related to restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:~~

~~a. rates and charges,~~

~~b. access and transition costs and fees,~~

~~c. stranded costs and their recovery,~~

~~d. stranded benefits and their funding,~~

~~e. municipal financing,~~

~~f. cooperative financing,~~

~~g. investor-owned utility financing, and~~

~~h. any other financial issues the task force deems appropriate.~~

~~A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.~~

~~4. No later than September 1, 1998, the Joint Electric Utility Task Force shall commence the study of consumer issues related to restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:~~

~~a. service territories,~~

~~b. the obligation to serve,~~

~~c. the obligation to connect,~~

~~d. consumer safeguards,~~

~~e. rates for regulated services,~~

~~f. consumer choices,~~

~~g. competition,~~

~~h. licensing of retail electric energy suppliers, and~~

~~i. any other consumer issues the task force finds appropriate.~~

~~A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.~~

~~D. The Joint Electric Utility Task Force may, if it deems necessary, by a majority vote of the members combine or modify any of the studies required by this act. Provided, however, the task force shall not eliminate any of the issues required to be studied herein~~.

SECTION 2. AMENDATORY 17 O.S. 2011, Section 287, is amended to read as follows:

Section 287. A. The Legislature declares that it is in the public interest to promote the development of a robust transmission and distribution grid and reduce duplication of facilities to facilitate delivery of Oklahoma-produced renewable energy and improve reliability of the electric transmission and distribution system. It is further in the public interest, in cooperation with electricity transmission and distribution entities and the Southwest Power Pool, to promote ~~wind-~~ renewable energy development in the state to the extent that the renewable energy generated from wind and other qualifying renewable resources can be utilized in every part of the state and also exported to other states.

B. The Legislature and the Corporation Commission shall work with electricity transmission and distribution entities and the Southwest Power Pool to develop a plan to expand transmission capacity and the use of distribution systems in the state and

monitor the construction of new transmission facilities ~~in the state~~ and the use of the state's distribution systems annually through the year 2020. The Commission shall report on the progress in expanding transmission ~~capacity by January 1, 2014, and~~ facilities and the use of distribution systems by January 1, 2017, with a final report issued by January 1, ~~2020~~ 2021.

SECTION 3. AMENDATORY 17 O.S. 2011, Section 801.3, is amended to read as follows:

Section 801.3. As used in the Oklahoma Energy Security Act:

1. "Commission" means the Corporation Commission;

2. "Demand side management" means the management by the customer of customer consumption of electricity, or the demand for electricity, through the implementation of:

a. load management or demand resource technologies, management practices or other strategies ~~in~~ developed by residential, commercial, industrial, institutional or government customers, including tribal utility authorities, that ~~shift~~ adjust their electric loads from periods of higher demand to periods of lower demand and promote the use of Oklahoma-produced qualified renewable resources in facilities which are owned, operated, or leased or otherwise utilized by the customer, and/or

b. industrial by-product technologies consisting of the use of a by-product from an industrial process, including the reuse of energy from exhaust gases or other manufacturing by-products that are used in the direct production of electricity at the facility of a customer; and

3. "Energy efficiency" means technologies, management practices or other strategies ~~in~~ used by residential, commercial, institutional, or government customers, including tribal utility authorities, ~~that reduce electricity use~~ which promotes the use of Oklahoma-produced qualified renewable resources, creates job growth, enhances economic development, and are used by those consumers.

4. "Tribal utility authority" means a tribal business or entity created by the legislative body of a federally recognized Indian tribe located in the State of Oklahoma organized to provide service to its own facilities, businesses located on tribal lands and tribal members living or doing business in facilities or housing constructed by an Indian tribe.

SECTION 4. AMENDATORY 17 O.S. 2011, Section 801.4, as amended by Section 1, Chapter 101, O.S.L. 2015 (17 O.S. Supp. 2015, Section 801.4), is amended to read as follows:

Section 801.4. A. The Legislature declares that it is in the public interest to promote renewable energy development and its use

by consumers in this state in order to best utilize the abundant natural resources found in this state.

B. It is hereby declared the intent of the State of Oklahoma to increase the use of renewable energy in the state by setting a renewable energy standard that will serve as a goal to be reached by the year ~~2015~~ 2020.

C. There is hereby established a renewable energy standard for the state that will serve as a goal for the year ~~2015~~ 2020. The renewable energy standard shall be a goal that ~~fifteen percent (15%)~~ twenty percent (20%) of all installed capacity of electricity generation within the state by the year ~~2015~~ 2020 be generated from renewable energy sources and used by retail consumers in this state.

D. For purposes of this ~~section~~ act, qualifying renewable energy resources shall include:

1. Wind;

2. Solar;

3. Photovoltaic;

4. Hydropower;

5. Hydrogen;

6. Geothermal;

7. Biomass, which projects may include agricultural crops, wastes, and residues, wood, animal and other degradable organic wastes, municipal solid waste, and landfill gas;

8. Distributed generation from an eligible renewable energy resource where the generating facility or any integrated cluster of such facilities has an installed generating capacity of not more than five (5) megawatts;

9. Other renewable sources approved by the Commission; and

10. Demand side management and energy efficiency as provided in Section ~~6 of this act~~ 801.6 of this title.

E. ~~Steam export capacity at a qualified renewable energy resource shall count toward the goal established in subsection C of this section.~~

~~F~~. The annual renewable energy percentage shall be determined by dividing all installed capacity of renewable electricity generation in Oklahoma by the total installed capacity of all electricity generation in Oklahoma. Every electricity generating entity or company operating electricity generation facilities in Oklahoma shall report to the Commission by March 1 each year the installed capacity of each of its generating facilities, the number of kilowatt hours generated by each facility in Oklahoma and from which source of energy the electricity was produced.

SECTION 5. AMENDATORY 17 O.S. 2011, Section 801.6, is amended to read as follows:

Section 801.6. Energy efficiency and demand side management are important components to maximizing the energy resources of our state. Therefore, every electricity generating entity in Oklahoma

may use energy efficiency and demand side management measures to assist the state in meeting its renewable energy standard. Provided, however, that demand side management may not be used to meet more than twenty-five percent (25%) of the overall ~~fifteen percent (15%)~~ goal of twenty percent (20%) renewable energy standard for the state. Energy conservation measures shall be described, ~~and~~ quantified, and submitted to the Corporation Commission on March 1 annually. The Commission shall make the final determination of the amount of generation capacity the electricity generating entity conserved and determine to what degree that will count toward meeting the renewable energy standard for the state.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 801.8 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Interconnection to, and operating in parallel with the electric facilities of any electric distribution system of any entity providing retail electric service to customers in this state to utilize Oklahoma-produced qualified renewable resources is declared to be in the public interest. Such interconnection shall be in compliance with the rules of the Corporation Commission, the Federal Energy Regulatory Commission and the safety standards established by the national Electric Safety Code.

B. Such interconnection and use of the distribution system for delivery of Oklahoma-qualified renewable resources is restricted to

providing Oklahoma-qualified renewable resources to a customer's own facility or facilities, and to serve, in the case of a tribal utility authority, facilities located on federal trust lands or state lands, or for serving new facilities not currently receiving service from any entity.

C. It is the intent of the Legislature to allow only the recovery of actual costs for such use of an entity's distribution system. The Corporation Commission is charged with the responsibility of development of charges for the use by a customer of any entity's electric distribution system to distribute owned or leased Oklahoma-qualified renewable energy resources.

SECTION 7. This act shall become effective November 1, 2016.

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