

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2817

By: Loring

6 AS INTRODUCED

7 An Act relating to electric power services; providing
8 for effect of certain applications for electric
utility rate increase by Oklahoma Corporation
9 Commission with respect to certain electric power
providers; providing for non-exclusivity; authorizing
10 persons and other legal entities to negotiate with
certain electric power providers with respect to
services within designated area; amending 17 O.S.
11 2011, Sections 158.24 and 158.25, which relate to the
Retail Electric Supplier Certified Territory Act;
12 modifying provisions related to exclusive rights with
respect to electric power services in designated
13 areas; providing for effect of enactment pursuant to
designated provisions of Article IX of the Oklahoma
14 Constitution; providing for codification; and
declaring an emergency.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 158.25A of Title 17, unless
20 there is created a duplication in numbering, reads as follows:

21 A. If a business entity organized under the laws of a foreign
22 country, or a business entity which is a subsidiary of a business
23 entity organized under the laws of a foreign country, has requested
24 an increase in electric utility rates by the Oklahoma Corporation

1 Commission within three (3) years prior to the effective date of
2 this act or at any time hereafter in an amount greater than twenty-
3 five percent (25%) from the rates in effect prior to the rate
4 increase request, the business entity engaged in the business of
5 providing electric power within a designated retail service area
6 shall not have the right of exclusivity with respect to selling
7 electric power to the persons, business enterprises or other legal
8 entities to whom or to which electric power is provided within such
9 service area.

10 B. Any person, business enterprise or other legal entity
11 residing within or otherwise located within a service area of a
12 business having requested an electric power rate increase as
13 described by subsection A of this section shall be authorized to
14 negotiate with any other provider of electric power for the supply
15 of such electric power at such rates and for such period of time as
16 may be mutually agreed to between the parties.

17 C. The provisions of this section shall also be applicable with
18 respect to persons, business enterprises or other legal entities
19 residing in or located within the corporate limits of any
20 municipality which has entered into a franchise agreement with a
21 business described by subsection A of this section for purposes of
22 supplying electric power, and the provisions of this section shall
23 supersede any restriction that would otherwise prohibit such
24 persons, business enterprises or other legal entities from entering

1 into contract with another electric power supplier within such
2 incorporated area.

3 SECTION 2. AMENDATORY 17 O.S. 2011, Section 158.24, is
4 amended to read as follows:

5 Section 158.24 A. Except as otherwise provided by law and
6 except as provided by Section 1 of this act, no retail electric
7 supplier shall furnish retail electric service in the certified
8 territory of another retail electric supplier.

9 B. Except as otherwise provided in this section, the boundaries
10 of the certified territory of each retail electric supplier are
11 hereby set as a line or lines substantially equidistant between its
12 existing distribution lines and the nearest existing distribution
13 lines of any other retail electric supplier in every direction, with
14 the result that there is hereby certified to each retail electric
15 supplier such unincorporated area which in its entirety is located
16 substantially in closer proximity to one of its existing
17 distribution lines than to the nearest existing distribution line of
18 any other retail electric supplier.

19 C. ~~(1)~~ 1. On or before ninety (90) days after the effective
20 date of this act, or, when requested in writing by a retail electric
21 supplier and for good cause shown, such further time as the
22 Commission may fix by order, each retail electric supplier shall
23 file with the Commission a map or maps showing all of its existing
24 distribution lines. The Commission shall prepare or cause to be

1 prepared within ninety (90) days thereafter a map or maps of uniform
2 scale to show, accurately and clearly, the boundaries of the
3 certified territory of each retail electric supplier as established
4 under Section 4 B, and shall issue such map or maps of certified
5 territory to each retail electric supplier. Any retail electric
6 supplier or municipality or beneficial trust thereof engaged in the
7 furnishing of electric service who feels itself aggrieved by reason
8 of a certification of territory pursuant to this section may protest
9 the certification of territory, not to exceed one township in a
10 single protest, within a one_hundred_twenty-day period after
11 issuance of the map of certified territory by the Commission; and
12 the Commission shall have the power, after hearing, to revise or
13 vacate such certified territories or portions thereof.

14 ~~(2)~~ 2. In such hearing, the Commission shall be guided by the
15 following conditions as they existed on the effective date of this
16 act:

17 ~~(a)~~ The

18 a. the proximity of existing distribution lines to such
19 certified territory~~.,~~

20 ~~(b)~~ Which

21 b. which supplier was first furnishing retail electric
22 service, and the age of existing facilities, in the
23 area~~.,~~

24 ~~(c)~~ Which

1 c. which supplier is the predominant retail electric
2 supplier in the area~~;~~,

3 ~~(d)~~ The

4 d. the adequacy and dependability of existing
5 distribution lines and facilities to provide
6 dependable high quality retail electric service at
7 reasonable costs~~;~~, and

8 ~~(e)~~ The

9 e. the elimination and prevention of duplication of
10 electric lines and facilities supplying such
11 territory.

12 In its determination of such protest, the Commission hearing shall
13 be de novo; and neither supplier shall bear the burden of proof.

14 D. In each unincorporated area, where the Commission shall
15 determine that the existing distribution lines of two or more retail
16 electric suppliers are so intertwined or located that Section 4 B
17 cannot reasonably be applied, the Commission shall, after hearing,
18 certify the service territory or territories for the retail electric
19 suppliers under the provisions of Section 4 C (2) hereof.

20 SECTION 3. AMENDATORY 17 O.S. 2011, Section 158.25, is
21 amended to read as follows:

22 Section 158.25 A. Except as otherwise provided herein and
23 except as provided by Section 1 of this act, each retail electric
24 supplier shall have the exclusive right to furnish retail electric

1 service to all electric-consuming facilities located within its
2 certified territory, and shall not furnish, make available, render
3 or extend its retail electric service to a consumer for use in
4 electric-consuming facilities located within the certified territory
5 of another retail electric supplier; provided, that any retail
6 electric supplier may extend its facilities through the certified
7 territory of another retail electric supplier, if such extension is
8 necessary for such supplier to connect any of its facilities or to
9 serve its consumers within its own certified territory.

10 B. Except as provided in Section 5 C and Section 5 E, any new
11 electric-consuming facility located in an unincorporated area which
12 has not as yet been included in a map issued by the Commission,
13 pursuant to Section 4C(1), or certified, pursuant to Section 4 D,
14 shall be furnished retail electric service by the retail electric
15 supplier which has an existing distribution line in closer proximity
16 to such electric-consuming facility than is the nearest existing
17 distribution line of any other retail electric supplier. Any
18 disputes under this Section 5 B shall be resolved by the Commission.

19 C. If the Commission, after hearing, shall determine that the
20 retail electric service being furnished or proposed to be furnished
21 by a retail electric supplier to an electric-consuming facility is
22 inadequate and is not likely to be made adequate, the Commission may
23 authorize another retail electric supplier to furnish retail
24 electric service to such facility.

1 D. Except as provided in Section 5 C, no retail electric
2 supplier shall furnish, make available, render or extend retail
3 electric service to any electric-consuming facility to which such
4 service is being lawfully furnished by another retail electric
5 supplier on the effective date of this act, or to which retail
6 electric service is lawfully commenced thereafter in accordance with
7 this section by another retail electric supplier.

8 E. The provisions of this act shall not preclude any retail
9 electric supplier from extending its service after the effective
10 date of this act ~~(1) to:~~

11 1. To its own property and facilities, in an unincorporated
12 area and ~~(2) subject~~

13 2. Subject to Section 5 D, to an electric-consuming facility
14 requiring electric service, in an unincorporated area, if the
15 connected load for initial full operation of such electric-consuming
16 facility is to be 1,000 kw or larger.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 178.25B of Title 17, unless
19 there is created a duplication in numbering, reads as follows:

20 If this act or any provision hereof is, or may be deemed to be,
21 in conflict or inconsistent with any of the provisions of Section 18
22 through Section 34, inclusive, of Article IX of the Constitution of
23 the State of Oklahoma, then, to the extent of any such conflicts or
24 inconsistencies, it is hereby expressly declared this entire act and

1 this section are amendments to and alterations of said sections of
2 the Constitution, as authorized by Section 35 of Article IX of said
3 Constitution.

4 SECTION 5. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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