

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4065 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Kevin Wallace

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 4065

By: Wallace

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to utilities; amending 17 O.S. 2021, Sections 151, 158.50, 181, and 250, which relate to definitions of terms; modifying definitions of public and electric utilities; excluding certain entities from certain definitions; declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 2021, Section 151, is amended to read as follows:

Section 151. A. 1. 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.

- 1 (a) For the conveyance of gas by pipeline.
- 2 (b) For the production, transmission, delivery or
- 3 furnishing of heat or light with gas.
- 4 (c) For the production, transmission, delivery or
- 5 furnishing electric current for light, heat or power.
- 6 (d) For the transportation, delivery or furnishing of
- 7 water for domestic purposes or for power. Provided
- 8 further that a corporation organized and existing not
- 9 for profit pursuant to Title 18 of the Oklahoma
- 10 Statutes, Sections 851-863, but for the purpose of
- 11 developing and providing rural water supply and sewage
- 12 disposal facilities to serve rural residents shall not
- 13 be declared a public utility under this act, and shall
- 14 be exempt in any and all respects from the
- 15 jurisdiction and control of the Corporation Commission
- 16 of this state.

17 2. The term "Commission" shall be taken to mean Corporation

18 Commission of Oklahoma.

19 B. Provided, that, that:

20 1. in Washington County, where any corporation, association,

21 company, individuals, their trustees, lessees, or receivers,

22 successors or assigns, is engaged in the private business of

23 manufacturing any products other than those hereinbefore defined,

24 and in the manufacture of such products operate and maintain private

1 electric or water plants for its own power and electrical energy or
2 water used in its manufacturing plant, without the right of eminent
3 domain and without the use of streets, highways or public property,
4 it may contract upon terms and prices approved by Corporation
5 Commission the sale of a bona fide surplus of electrical energy or
6 water developed in such private plants to any public utility engaged
7 in manufacturing and distributing electrical energy in Washington
8 County, Oklahoma, without becoming a public utility. Provided
9 further any city or town within a county having a population of over
10 five hundred thousand (500,000) or any county having a population of
11 over five hundred thousand (500,000), according to the 1970 Federal
12 Census, which is a beneficiary of a public trust that has multiple
13 beneficiaries and that includes within any or all of its boundaries
14 a water supply and/or distribution system, or any portion thereof,
15 shall have the authority to condemn all or any portion of any water
16 supply and/or distribution system owned and/or operated and/or
17 leased by a public trust within the limits of the condemning city or
18 town or within the unincorporated areas of the condemning county;
19 provided the power granted hereunder shall not be exercised until
20 the condemning city, town or county shall have made provision to pay
21 off all outstanding bonded indebtedness incurred by the public
22 trust, including interest on the bonds to maturity of the bonds, or
23 first call date, and premium, if any, to which the property to be
24 condemned or the revenues therefrom has been pledged for security.

1 2. The term "public utility" shall not include or be taken to
2 mean a corporation, association, company, individuals, their
3 trustees, lessees, receivers, successors, or assigns which:

- 4 a. furnish an electric service or commodity only to
5 itself, its employees, or its tenants as an incident
6 of employment or tenancy, if that service or commodity
7 is not resold to or used by others; provided such
8 entity does not provide retail electric supply, or
9 b. owns or operates in this state equipment or facilities
10 to produce, generate, transmit, distribute, sell, or
11 furnish electric energy to an electric utility, if the
12 equipment or facilities are used primarily to produce
13 and generate electric energy for consumption by that
14 person; provided such entity does not provide retail
15 electric supply.

16 SECTION 2. AMENDATORY 17 O.S. 2021, Section 158.50, is
17 amended to read as follows:

18 Section 158.50 1. "Acquiring party" means a person and all
19 affiliates thereof by whom or on whose behalf an acquisition of
20 control referred to in Section ~~2~~ 158.51 of this ~~act~~ title is to be
21 effected;

22 2. "Affiliate" means a person who directly, or indirectly
23 through one or more intermediaries, controls, or is controlled by or
24 is under common control with the person specified including any

1 corporation created at the direction of the person specified for
2 purposes of corporate reorganization;

3 3. "Commission" means the Oklahoma Corporation Commission;

4 4. "Control" (including the terms "controlling", "controlled
5 by", and "under common control with") means the possession, direct
6 or indirect, of the power to direct or cause the direction of the
7 management and policies of a person, whether through the ownership,
8 by contract, purchase of assets, or otherwise, unless such power is
9 the result of an official position with, or corporate office held
10 in, such person. Control shall be presumed to exist if any person,
11 directly or indirectly, owns or controls the assets of such rural
12 electric cooperative. This presumption may be rebutted by showing
13 that control does not exist in fact. The Commission may determine,
14 after furnishing all persons in interest notice and opportunity to
15 be heard and making specific findings of fact to support such
16 determination, that control exists in fact, notwithstanding the
17 absence of a presumption to that effect;

18 5. "Domestic public utility" means a person doing business in
19 the state, including any other person controlling such a domestic
20 public utility, any substantial portion of the revenues of which,
21 either directly or indirectly, are derived from the business of
22 providing utility service in this state, except that such term does
23 not include agencies, authorities or instrumentalities of the United
24 States or a state or political subdivision of a state;

1 6. "Person" means an individual, a corporation, a partnership,
2 an association, a joint stock company, a trust, an unincorporated
3 organization, any similar entity or any combination of the foregoing
4 acting in concert, but shall not include any securities broker
5 performing no more than the usual and customary broker's function;

6 7. "Rural electric cooperative" means a person doing business
7 in the state, pursuant to Section 437.1 et seq. of Title 18 of the
8 Oklahoma Statutes;

9 8. "Utility service" means the distribution, delivery or
10 furnishing of electric current for sale to the public for light,
11 heat or power, provided that such term shall not include entities as
12 described by the provisions of paragraph 2 of subsection B of
13 Section 151 of this title;

14 9. "Assets" in the case of a rural electric cooperative means
15 the physical plant, equipment, accounts receivable, accounts
16 payable, capital credits and all other assets of such rural electric
17 cooperative.

18 SECTION 3. AMENDATORY 17 O.S. 2021, Section 181, is
19 amended to read as follows:

20 Section 181. In this act unless the context otherwise requires:

21 (1) "Public utility" means and embraces every corporation
22 organized or doing business in this state, (except a
23 municipal corporation or other political subdivision
24 of this state), that now owns or hereafter may own,

1 operate or manage any plant or equipment for the
2 manufacture, production, transmission, delivery or of
3 furnishing electric current for light, heat or power
4 for public use in this state, provided that such term
5 shall not include entities as described by the
6 provisions of paragraph 2 of subsection B of Section
7 151 of this title.

8 (2) "Commission" means the Corporation Commission of the
9 State of Oklahoma.

10 (3) "Securities" means capital stock and evidences of
11 indebtedness having the standing of negotiable
12 instruments of a public utility, not including,
13 however, any such obligation falling due twelve (12)
14 months or less after its issuance.

15 SECTION 4. AMENDATORY 17 O.S. 2021, Section 250, is
16 amended to read as follows:

17 Section 250. As used in this act:

18 1. "Affiliated person, subsidiary, firm or corporation" means
19 any person, subsidiary, firm or corporation which:

- 20 a. controls or is controlled by a public utility,
- 21 b. is controlled by an entity that also controls the
22 utility, or
- 23 c. the utility or an entity controlling the utility has
24 directly or indirectly the power to control;

1 2. "Commission" means any state regulatory body which has
2 jurisdiction to regulate public utilities or electric cooperatives;

3 3. "Emergency sales of gas" mean sales of natural gas made by a
4 public utility or subsidiary thereof to one or more interstate
5 pipelines or other out-of-state customer pursuant to federal law
6 which exempts such transactions from the jurisdiction of the Federal
7 Power Commission;

8 4. "Fair field price" means the value attributed to gas
9 produced from wells owned by a public utility, or a subsidiary or
10 affiliate of a public utility, which shall be the going price paid
11 by the utility, subsidiary or affiliate to others in the field where
12 such production is located. If the utility, subsidiary or affiliate
13 is not purchasing gas in such field, then such value shall be the
14 price paid by the utility, subsidiary or affiliate in the nearest
15 field where conditions are similar. The value to be attributed to
16 residue gas owned by a public utility, or a subsidiary or affiliate
17 of a public utility, from gas processing plants shall be the going
18 price paid by the utility, subsidiary or affiliate to others from
19 the same plant. If the utility, subsidiary or affiliate is not
20 purchasing gas from said plant, then the value shall be the price
21 paid by the utility, subsidiary or affiliate at the nearest plant
22 where conditions are similar. However, the Commission may require
23 an adjustment of the fair field price when it deems it proper to do
24 so based on information before it. The fair field price shall not

1 be applicable to gas purchased by a public utility from a subsidiary
2 or affiliate of a public utility pursuant to a competitive bid
3 process;

4 5. "Fuel adjustment clause" means any mechanism which allows a
5 public utility or electric generating cooperative to automatically
6 adjust its charges above or below the base amount included in its
7 rates, based upon changes in costs of fuel for generation of
8 electricity, purchased power or purchased gas;

9 6. "Heat rate" means a measure of the efficiency of an electric
10 generating station, computed by dividing the total British Thermal
11 Unit content of the fuel burned by the resulting net kilowatt-hours
12 generated;

13 7. "Line loss" means the kilowatt-hours of electricity lost in
14 the operation of an electric transmission or distribution system;

15 8. "Public utility" or "utility" means any individual, firm,
16 association, partnership, corporation, or any combination thereof,
17 other than a municipal corporation or their lessees, trustees and
18 receivers, owning or operating for compensation in this state
19 equipment or facilities for:

20 a. producing, generating, transmitting, distributing,
21 selling or furnishing electricity, or

22 b. transmitting, directly or indirectly, or distributing
23 combustible hydrocarbon natural or synthetic natural
24

1 gas for sale to the public or for wholesale, unless
2 its wholesale rates are regulated by a federal agency,
3 provided that such term shall not include entities as described by
4 the provisions of paragraph 2 of subsection B of Section 151 of this
5 title; and

6 9. "Purchased power adjustment clause" means any mechanism
7 which allows an electric public utility or electric distribution
8 cooperative to adjust its charges above or below the base amount
9 included in its rates based upon changes in costs of wholesale power
10 purchased from others.

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

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16 59-2-10048 JM 02/08/24
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