

## FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB694 \_\_\_\_\_  
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**

Adopted: \_\_\_\_\_

Amendment submitted by: Charles McCall

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

FLOOR SUBSTITUTE

FOR

ENGROSSED SENATE BILL NO. 694

By: Treat of the Senate

and

McCall of the House

FLOOR SUBSTITUTE

An Act relating to utility rates; enacting the Rate Stabilization Act of 2023; stating purpose; providing for construction of act; providing for authority of Oklahoma Corporation Commission; authorizing administrative rules; defining terms; providing for performance-based rates and charges; prescribing procedures for filing; imposing limit on total number of performance-based rate plan applications; providing for actions by Oklahoma Corporation Commission; prohibiting filing of performance-based rate plan based on final order related to general change in rates; requiring certain information with filing; requiring hearing within certain period of time; requiring final order of Oklahoma Corporation Commission; authorizing Corporation Commission to required certain security; prescribing required content of orders; imposing requirements with respect to content of performance-based rate filings; prescribing procedures related to successive filings; providing standard for approval or disapproval; prescribing procedures related to rate of return analysis; providing for adjustment of rates based upon analysis; providing for rate changes; providing for refunds; requiring filing of rate schedules; imposing maximum adjustments within specified period of time; providing for continuation of certain rates; authorizing withdrawal of election by utility; prescribing procedures for withdrawal; providing for effect of approval of performance-based rate

1 adjustments; providing for authority of Oklahoma  
2 Corporation Commission with respect to utility rates;  
3 requiring rate options; prescribing options;  
4 providing for authority of Oklahoma Corporation  
5 Commission with respect to options; requiring billing  
6 relief program; prescribing required content of  
7 relief program; requiring administrative rules;  
8 defining terms; imposing requirements with respect to  
9 natural gas storage; authorizing storage management  
10 contracts; authorizing certain cost recovery;  
11 providing for codification; and providing an  
12 effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 803.1 of Title 17, unless there  
is created a duplication in numbering, reads as follows:

A. Sections 1 through 10 of this act shall be known and may be  
cited as the "Rate Stabilization Act of 2023".

B. The purpose of this act is to ensure electric utilities  
provide safe, reliable, and affordable service to their customers by  
requiring just and reasonable utility rates through regular and  
frequent scrutiny of utility costs by the Corporation Commission,  
protecting customers against natural gas price volatility, returning  
excess utility profits to utility customers, and requiring customer  
protections, such as utility bill relief programs, including low

1 income assistance, customer disconnection criteria, and alternative  
2 monthly billing options.

3 C. Nothing in this act shall be construed to repeal any other  
4 provision of law and is supplemental to all other laws governing the  
5 regulation of public utilities.

6 D. Nothing in this act shall prohibit the Commission from  
7 exercising its powers under any other statute or the Constitution of  
8 the State of Oklahoma.

9 E. No cost incurred or rate adjustment proposed by a utility  
10 pursuant to this act shall be recovered from utility customers  
11 unless ordered by a majority vote of the Commission following a  
12 public hearing.

13 F. The Corporation Commission shall have the authority to  
14 promulgate any rules and regulations necessary to effectuate the  
15 provisions of this act, including penalties for non-compliance.

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 803.2 of Title 17, unless there  
18 is created a duplication in numbering, reads as follows:

19 As used in this act:

- 20 1. "Commission" means the Corporation Commission;
- 21 2. "Customer utility bill relief program" means a program to be  
22 administered by an electric utility subject to retail rate  
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1 regulation by the Commission, to be offered to residential customers  
2 of the utility for the purposes of providing bill relief options to  
3 customers;

4 3. "Earned return on equity" means the actual earned return on  
5 equity during the historical year, subject to the adjustments  
6 defined in this act and the utility's performance-based rate plan  
7 rate schedule approved by the Commission;

8 4. "General rate case application" means a request for review  
9 of an electric utility's rates and charges as prescribed by the laws  
10 of this state and administrative rule of the Commission;

11 5. "Historical year" means the test period utilized by the  
12 electric utility in its performance-based rate plan notice;

13 6. "Performance-based rate plan" means the formula by which the  
14 jurisdictional non-fuel revenue requirements of a rate-regulated  
15 electric utility shall be calculated and allocated to the utility's  
16 various rate schedules, subject to the jurisdiction of the  
17 Commission and this act;

18 7. "Performance-based rate plan application" means one of the  
19 five annual rate evaluations and adjustments filed by the electric  
20 utility before the Commission during the performance-based rate plan  
21 term;

22 8. "Performance-based rate plan application filing date" means  
23 the last day of the year in which an electric utility shall file its  
24 annual performance-based rate plan application before the

1 Commission, unless a modification to such date is requested by a  
2 utility and approved by the Commission;

3 9. "Performance-based rate plan notice" means the request filed  
4 before the Commission as part of a new general rate change  
5 application electing to utilize a performance-based rate plan, which  
6 shall be included with a general rate case application filed before  
7 the Commission;

8 10. "Performance-based rate plan term" means a period following  
9 a final order issued in a general rate case application, inclusive  
10 of five annual performance-based rate plan applications based upon  
11 five (5) individual historical years;

12 11. "Target return on equity" means the return on shareholder  
13 equity established for the electric utility in the final order  
14 addressing its most recent general rate case application; and

15 SECTION 3. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 803.3 of Title 17, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. 1. An electric utility filing an application for a general  
19 change to its rates and charges under this section and pursuant to  
20 the rules of the Commission may, as part of a new general rate  
21 change application, file a performance-based rate plan notice before  
22 the Commission indicating the utility is electing to have its rates  
23 regulated under a performance-based rate plan as authorized and  
24 defined by this act.

1        2. The performance-based rate plan notice shall define the  
2 historical year to be utilized in each performance-based rate plan  
3 application during the performance-based rate plan term.

4        3. Prior to an electric utility choosing to file a performance-  
5 based rate plan notice, a new general rate change application must  
6 be filed on or after November 1, 2023.

7        4. Performance-based rate plan notices shall only be filed  
8 concurrent with a new general rate change application on or after  
9 November 1, 2023.

10       5. No more than five performance-based rate plan applications  
11 shall be filed during any one performance-based rate plan term.

12       B. 1. The Commission shall grant the utility's first  
13 performance-based rate plan notice to elect rate regulation under a  
14 performance-based rate plan, as authorized and defined by this act.  
15 The Commission may grant a second and any subsequent performance-  
16 based rate plan notice and performance-based rate plan term pursuant  
17 to subsection E of Section 4 of this act.

18       2. The Commission shall regulate the rates of the utility in  
19 accordance with the terms of this act and the Commission's rules  
20 during the performance-based rate plan term and any tariff approved  
21 by the Commission that does not otherwise conflict with the terms of  
22 this act.

23       C. An electric utility shall not file its first performance-  
24 based rate plan application of any performance-based rate plan term

1 until at least one hundred eighty (180) days after rates have become  
2 effective pursuant to the final order on the application for a  
3 general change in rates.

4 D. The rates that are approved in the final order of the  
5 utility's most recent general rate case application shall remain in  
6 effect during the performance-based rate plan term, subject to the  
7 rate adjustments under this section.

8 E. An approved performance-based rate plan shall require the  
9 utility to file the information required by the Commission pursuant  
10 to this section on the performance-based rate plan application  
11 filing date. The Commission may establish minimum filing  
12 requirements for a performance-based rate plan application.

13 F. 1. The Commission shall conduct a hearing on a utility's  
14 performance-based rate plan application no later than one hundred  
15 twenty (120) calendar days after a utility's performance-based rate  
16 plan application filing date.

17 2. The Commission shall issue a final order no later than one  
18 hundred eighty (180) days after a utility's performance-based rate  
19 plan application filing date. No performance-based rate adjustment  
20 shall occur unless ordered by a majority vote of the Commission. If  
21 such a final order has not been issued by the one-hundred-eightieth  
22 day following a performance-based rate plan application filing date,  
23 the rates proposed by the utility in its performance-based rate plan  
24 application shall go into immediate effect, at the utility's



1 discretion, subject to refund following the issuance of a final  
2 order.

3 G. The Commission may require reasonable security to assure the  
4 prompt payment of any refunds, including interest, that may be  
5 ordered.

6 SECTION 4. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 803.4 of Title 17, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. An order by the Commission approving a  
10 performance-based rate application shall specify the minimum  
11 information required with each annual rate review filing.

12 B. Annual performance-based rate applications filed by an  
13 electric utility during a performance-based rate term shall be  
14 developed using the historical year.

15 C. Annual performance-based rate applications shall be prepared  
16 consistent with the Commission's final order on the utility's most  
17 recent general rate case application.

18 D. Following the conclusion of a utility's first performance-  
19 based rate term, the utility shall file a general rate case  
20 application and may elect to include a new performance-based rate  
21 notice with such application for a new performance-based rate term.

22 E. The Commission may grant a re-authorization of the utility's  
23 new performance-based rate notice for a new performance-based rate  
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1 term if the Commission determines such a new performance-based rate  
2 term is in the public interest.

3 F. Rates approved pursuant to a utility's most recent  
4 performance-based rate application shall continue until a final  
5 order in the utility's next general rate case application is issued  
6 and the compliance tariffs are approved.

7 SECTION 5. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 803.5 of Title 17, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. 1. Rates shall be adjusted in a performance-based rate  
11 application based on a comparison of the earned return on equity to  
12 the target return on equity.

13 2. The target return on equity shall be established in the  
14 final order addressing the performance-based rate notice in the  
15 electric utility's most recent general rate case application.

16 3. In a performance-based rate application, the target return  
17 on equity and earned return on equity shall be calculated utilizing  
18 the same capitalization structure approved by the Commission in the  
19 utility's most recent general rate case application.

20 B. For the purposes of adjusting rates in a performance-based  
21 rate application, a dead-band of earned returns shall be established  
22 around the target return on equity set in the final order. For rate  
23 adjustments pursuant to this section, the following provisions shall  
24 be applied:

1        1. The dead-band shall be the target return on equity plus  
2 fifty (50) basis points and the target return on equity minus fifty  
3 (50) basis points, for a total dead-band of one hundred (100) basis  
4 points;

5        2. In a performance-based rate application, if the earned  
6 return on equity is within the established dead-band, no rate change  
7 or refund shall occur; and

8        3. In a performance-based rate application, if the earned  
9 return on equity is less than the dead-band, rates shall be adjusted  
10 to the target return on equity prospectively.

11       C. 1. In a performance-based rate application, if the earned  
12 return on equity is greater than the dead-band, a refund shall be  
13 issued to customers over a twelve-month period. The refund shall be  
14 one hundred percent (100%) of such revenues associated with the  
15 earned return on equity greater than the dead-band and shall be  
16 credited or returned to utility customers.

17       2. Revenues returned to customers in one performance-based rate  
18 application shall not be included in the calculation of a target  
19 return on equity in a subsequent performance-based rate application  
20 or a general rate case application.

21       D. Rate base and cost of service shall be computed in the same  
22 manner as approved in the utility's most recent general rate case  
23 application.

1 E. The utility shall file the resulting rate schedules as part  
2 of any performance-based rate application final order compliance  
3 filing.

4 F. Only one performance-based rate adjustment shall occur  
5 during any period of three hundred sixty-five (365) days.

6 G. Rates resulting from a performance-based rate shall continue  
7 until new rates have been ordered by the Commission in a subsequent  
8 performance-based rate application or general rate case application.

9 H. Subject to paragraphs 1 through 4 of this subsection, the  
10 utility may withdraw its election to have its rates regulated  
11 pursuant to this act. To withdraw from an existing performance-  
12 based rate term prior to the expiration of the performance-based  
13 rate term, a utility shall be required to:

14 1. File a notice of withdrawal before the Commission; and

15 2. Upon withdrawal, all existing rates and charges shall  
16 continue until a final order in the utility's next general rate case  
17 application is issued and the compliance tariffs are approved.

18 3. File a general rate case application utilizing the same  
19 historical year that otherwise would have been utilized in the  
20 utility's next scheduled performance-based rate plan application no  
21 later than six (6) months following the end of the historical year.

22 4. Following a public hearing in such rate case, should the  
23 Commission find a refund to customers would have otherwise been  
24 issued in the utility's next scheduled performance-based rate plan

1 application, the Commission may order such a refund over a twelve-  
2 month period.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 803.6 of Title 17, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Upon Commission approval of rates pursuant to a utility's  
7 performance-based rate application, all existing tariffs approved by  
8 the Commission providing separate cost recovery outside of base  
9 rates shall cease, except for fuel expenses subject to a separate  
10 review as authorized by Section 251 et seq. of Title 17 of the  
11 Oklahoma Statutes, and securitization as authorized by Section 9070  
12 et seq. of Title 74 of the Oklahoma Statutes. Pursuant to its  
13 general ratemaking authority, the Commission may, in its discretion,  
14 approve the continuation of prior approved tariffs or approval of  
15 new tariffs.

16 B. Upon approval of a performance-based rate notice, the  
17 Commission shall require the utility to file tariffs conforming to  
18 this act and order of the Commission.

19 C. Nothing in this act shall be construed to prohibit utilities  
20 from requesting approval of additional optional rate offerings to  
21 customers.

22 SECTION 7. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 804.1 of Title 17, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. All investor-owned electric utilities subject to retail rate  
2 regulation by the Commission shall offer rate options for  
3 residential customers of the electric utility to protect them from  
4 price volatility. Each utility shall, at a minimum, offer the  
5 following rate options:

6       1. An average monthly billing plan; and

7       2. An annual flat bill tariff option that results in the same  
8 total bill for a twelve-month period, inclusive of a reasonable risk  
9 premium to be determined by the Commission. The tariff option shall  
10 be available to a residential customer who has resided at his or her  
11 current residence for the previous twelve (12) months, has had his  
12 or her electricity priced on the applicable residential tariffs and  
13 riders over the past twelve (12) months, and is currently in good  
14 standing with the utility.

15       B. Each utility shall submit to the Commission for approval the  
16 rate options to be offered to customers under subsection A of this  
17 section. Upon approval by the Commission, the options shall become  
18 a part of the utility's approved tariffs in the electric utility's  
19 next general review of rates and charges filed pursuant to this act.

20       C. Not less than once per calendar year, a utility under this  
21 section shall give written notice to its residential customers of  
22 the availability of the rate options described in subsection A of  
23 this section.

1       SECTION 8.       NEW LAW       A new section of law to be codified

2 in the Oklahoma Statutes as Section 804.2 of Title 17, unless there  
3 is created a duplication in numbering, reads as follows:

4       A. An investor-owned electric utility subject to retail rate  
5 regulation by the Commission shall propose and be responsible for  
6 the administration of a customer utility bill relief program.

7 Proposed programs shall be filed with the Commission or included  
8 with a general rate case application for approval.

9       B. A program submitted under subsection A of this section shall  
10 include, but not be limited to:

11       1. A low income discount for residential customers and a  
12 process and criteria for application by an eligible customer;

13       2. Provisions and criteria for waiving or reducing late payment  
14 penalties, deposits, or unpaid balances;

15       3. Extended payment plans;

16       4. Criteria for suspension of disconnection activity in  
17 addition to weather disconnection moratoriums; and

18       5. Explanation of the utility's plan for recovery of prudently  
19 incurred program costs and any uncollectable balances incurred as a  
20 result of the program.

21       C. The Commission shall promulgate rules to implement the  
22 provisions of this section.

1       SECTION 9.       NEW LAW       A new section of law to be codified in  
2 the Oklahoma Statutes as Section 805.1 of Title 17, unless there is  
3 created a duplication in numbering, reads as follows:

4       1. "Actual physical storage" means a storage field, LNG  
5 storage, or other physical facility, or firm services offered by a  
6 pipeline, for the purpose of provision and storage of natural gas  
7 and for which the stored natural gas is not subject to a prior claim  
8 by another storage customer or another class of storage service and  
9 cannot be interrupted except in a situation of force majeure.

10       2. "Asset manager" means any third party that is authorized to  
11 sell, market, or utilize excess natural gas capacity that electric  
12 utilities do not need or are not critical for operation during non-  
13 winter months;

14       3. "Capacity factor" means the amount of energy that a unit  
15 produced during a certain period divided by the amount of energy  
16 that it could have produced if it was at full load for that same  
17 period.

18       4. "Natural gas electric generation" means a machine or  
19 machines that use natural gas to produce capacity, energy, or other  
20 electricity products that operates with a capacity factor of at  
21 least ten percent (10%) in a given calendar year;

22       5. "Natural gas supply" means an adequate and reliable quantity  
23 of natural gas which is an amount sufficient to meet and support the  
24 required generating output for a given period.



1        6. "Winter months" means the time period between November 1 of  
2 a given year through March 31 of the following year.

3        SECTION 10.        NEW LAW        A new section of law to be codified  
4 in the Oklahoma Statutes as Section 805.2 of Title 17, unless there  
5 is created a duplication in numbering, reads as follows:

6        A. An investor-owned electric utility subject to retail rate  
7 regulation by the Commission with more than ten percent (10%) of its  
8 total customers located in Oklahoma that utilizes natural gas  
9 electric generation shall, by November 2024, maintain the greater  
10 of:

11        1. Two billion (2,000,000,000) cubic feet of natural gas supply  
12 from actual physical storage to operate is natural gas electric  
13 generation facilities; or

14        2. A supply of enough natural gas sufficient to operate the  
15 utility's natural gas electric generation facilities at eighty  
16 percent (80%) of maximum daily quantity for a period of not less  
17 than fourteen (14) consecutive days during the winter months to  
18 protect customers from adverse weather events and supply chain  
19 issues. Of the above required natural gas supply, at least fifty  
20 percent (50%) shall be satisfied by actual physical storage.

21        B. Each electric utility subject to the requirements of this  
22 section may enter into storage management contracts with asset  
23 managers, self-optimize its storage services to mitigate the costs  
24 of the increased storage for customers, or any combination thereof.

1 The monetary or financial benefits derived from storage management  
2 contracts with an asset manager, the electric utility's self-  
3 optimized services, or any combination thereof shall be returned to  
4 customers to mitigate the costs of increased storage capacity  
5 required in subsection A of this section in a manner that shall be  
6 determined by the Commission.

7 C. Electric utilities subject to the provisions of this section  
8 shall be entitled to recover reasonable and prudently determined  
9 costs for the firm supply requirements of this section, subject to  
10 the general supervision and regulation by the Commission as defined  
11 in Section 152 of Title 17 of the Oklahoma Statutes.

12 SECTION 11. This act shall become effective November 1, 2023.

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