

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1332

By: Prieto

AS INTRODUCED

An Act relating to Corporation Commission; creating the Oklahoma Electric Choice and Competition Act; providing short title; stating legislative intent; defining terms; providing for certain customers to make certain electric supplier determination; providing for competitive market for the generation or electricity; directing rule promulgation; requiring access to certain transmission and distribution systems subject to certain regulation; prohibiting modifications to services or obligations of certain utilities; requiring access to certain utility systems and information for certain retail electric suppliers; directing Commission to establish process for certain data processes; providing for customer selection of billing method; directing creation of customer education program; providing for continuance of service by utility for certain customers; directing issuance of certain license by Commission; directing establishment of certain processes within Commission; providing for recovery of certain costs by utility; providing for divestment of generation assets by utility; requiring certain plan submission; establishing plan content; providing for codification; and providing an effective date.

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:

1 This act shall be known and may be cited as the "Oklahoma  
2 Electric Choice and Competition Act".

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

6 The Legislature of the State of Oklahoma finds and declares as  
7 follows:

8 1. Electricity is essential to public safety and economic  
9 development, and electricity should be available to all customers on  
10 reasonable terms and conditions;

11 2. It is in the public interest to permit industrial and  
12 commercial customers of investor-owned electric utilities that serve  
13 more than one hundred thousand (100,000) customers to obtain direct  
14 access to a competitive retail electric market for the purchase of  
15 electric generation service;

16 3. Electric utilities will remain responsible for owning and  
17 maintaining the transmission and distribution systems and providing  
18 transmission and distribution services as monopoly functions;

19 4. A competitive retail electric market shall be implemented  
20 through a fair and orderly transition for the generation and sale or  
21 purchase of electricity;

22 5. The transition to a competitive retail electric market  
23 should not adversely affect industrial and commercial customers or  
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1 result in a decline in the protections, policies, and services that  
2 are currently in place for customers;

3 6. Electric utilities have generally had an obligation to serve  
4 customers within their defined service territories and, consistent  
5 with that obligation, have undertaken long-term investments in  
6 generation, transmission, and distribution facilities and entered  
7 into long-term power supply agreements. Some of these investments  
8 and agreements have created costs that may not be recoverable in a  
9 competitive market. Electric utilities should be permitted to  
10 recover these stranded costs, as well as transition costs incurred  
11 to implement electric competition; and

12 7. Under current law, the generation, transmission, and  
13 distribution of electricity is provided by electric utilities under  
14 bundled rates. In order to permit industrial and commercial  
15 customers to have direct access to a competitive market for the  
16 purchase of electricity, electric utilities shall unbundle these  
17 rates into rates for generation, transmission, and distribution.  
18 This unbundling process should be performed in a manner that does  
19 not cause any cross-subsidization among customer classes.

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

23 As used in the Oklahoma Electric Choice and Competition Act:  
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1           1. "Anticompetitive or discriminatory conduct" means conduct by  
2 an electric utility which inhibits the ability of retail electric  
3 suppliers to provide electric generation service to customers or  
4 which creates an impression that the basic generation service by the  
5 electric utility is superior to offerings in the competitive market  
6 or provides an advantage to any related retail electric supplier  
7 over nonaffiliated retail electric suppliers;

8           2. "Basic generation service" means the electricity that  
9 electric utilities continue to supply to customers who do not select  
10 a retail electric supplier when given direct access to retail  
11 electric suppliers;

12           3. "Commercial and industrial customer" means a customer  
13 receiving distribution service from the electric utility under a  
14 nonresidential tariff;

15           4. "Commission" means the Corporation Commission;

16           5. "Competitive procurement process" means an auction in which  
17 wholesale electric suppliers submit bids to supply electric  
18 generation service to the electric utility for basic generation  
19 service supplied to customers;

20           6. "Competitive transition charge" means a non-bypassable  
21 mechanism for the recovery of transition or stranded costs by the  
22 electric utility;

1           7. "Compliance plan" means a plan filed by an electric utility  
2 to implement the provisions of this act relating to restructuring,  
3 transition or stranded costs, unbundling, and direct access;

4           8. "Cooperative" means a corporation organized under or that is  
5 subject to the Rural Electric Cooperative Act established in Section  
6 437 et seq. of Title 18 of the Oklahoma Statutes;

7           9. "Customer" means a retail industrial or commercial customer  
8 receiving service from an electric utility or a retail electric  
9 supplier;

10          10. "Direct access" means the ability of a customer to purchase  
11 electricity directly from a retail electric supplier;

12          11. "Dual bill" means a separate bill sent by a retail electric  
13 supplier to a customer containing only the charges for electric  
14 generation service;

15          12. "Electric generation service" means the generation or sale  
16 of electricity to customers by retail electric suppliers;

17          13. "Electric utility" means any investor-owned public utility  
18 engaged in the furnishing of electric service to one hundred  
19 thousand (100,000) or more customers;

20          14. "Hourly prices" means charges for basic generation service  
21 that vary hour-to-hour and are determined from wholesale market  
22 prices using a methodology approved by the Commission;

23          15. "Indirect costs" means those overhead or shared costs that  
24 are incurred by an electric utility on a total company basis to  
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1 provide distribution service and basic generation service to  
2 customers on its distribution system;

3 16. "Non-bypassable charge" means a charge that is assessed on  
4 all customers of an electric utility's distribution system, which  
5 cannot be bypassed by opting to receive electric generation service  
6 from a retail electric supplier in the market;

7 17. "Restructuring" means the process of restructuring the  
8 monopoly electric utility to allow customers to choose a retail  
9 electric supplier for electric generation service but still receive  
10 transmission and distribution service from the electric utility;

11 18. "Retail electric supplier" means an entity licensed by the  
12 Commission to supply electric generation service to customers;

13 19. "Supplier consolidated billing" means a billing procedure  
14 under which a retail electric supplier sends a consolidated bill to  
15 a customer, containing its electric generation service charges and  
16 the electric utility's distribution charges;

17 20. "Transition or stranded costs" means costs which would have  
18 been recoverable by electric utilities in a monopoly environment but  
19 may not be recovered in a competitive generation market, including  
20 regulatory assets and other deferred charges, environmental  
21 expenses, cost obligations under long-term contracts, customer  
22 education, and other costs associated with implementing electric  
23 choice, in addition to any costs identified by the Commission;

1           21. "Transmission and distribution service" means delivery of  
2 electricity provided by the electric utility over its transmission  
3 and distribution systems;

4           22. "Unbundle" or "unbundling" means separating the process of  
5 electric service into its three basic components of transmission,  
6 distribution, and generation services, and identifying the costs  
7 incurred by the electric utility to provide each component of the  
8 electric service; and

9           23. "Utility consolidated billing" means a billing procedure  
10 under which an electric utility sends a consolidated bill to a  
11 customer, containing its distribution charges and the retail  
12 electric supplier's electric generation service charges.

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

16           A. Beginning January 1, 2025, the Corporation Commission shall  
17 permit commercial and industrial customers of electric utilities to  
18 choose a retail electric supplier.

19           B. All customers of electric utilities shall have direct access  
20 to a competitive market for the generation of electricity for the  
21 purpose of selecting the entity that supplies electric generation  
22 service consistent with the timeframe established in subsection A of  
23 this section.

1 C. The Corporation Commission shall promulgate rules for a fair  
2 and orderly restructuring process for the sale and purchase of  
3 electric generation service.

4 D. Electric utilities shall provide open access over their  
5 transmission and distribution systems to allow retail electric  
6 suppliers to sell electric generation service directly to customers  
7 in this state.

8 E. Electric utilities shall unbundle the rates charged for  
9 generation, transmission, and distribution services for all classes  
10 of industrial and commercial customers.

11 F. The Commission shall continue to regulate the transmission  
12 and distribution of electricity by electric utilities as monopoly  
13 functions and shall enforce the rules relating to direct access and  
14 basic generation service procurement.

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

18 A. Nothing in this act shall be viewed as affecting the  
19 obligations of electric utilities to provide safe, reliable, and  
20 affordable service.

21 B. The transition to a competitive retail electric market shall  
22 not adversely affect customers or result in a decline in the  
23 protections, policies, and services that are currently in place for  
24 customers.

1 C. The unbundling process required by this act shall preserve a  
2 fair allocation of costs among customers, as per rules promulgated  
3 by the Corporation Commission.

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

7 A. All electric utilities have an obligation to provide open  
8 and nondiscriminatory access to their systems as needed for retail  
9 electric suppliers to provide service. Such access includes  
10 customer metering and other customer information so long as the  
11 retail electric supplier receives customer consent for the release  
12 of the data.

13 B. The Corporation Commission shall develop processes for  
14 retail electric suppliers to confirm and document the customer's  
15 consent to release data; however, such processes may not require  
16 onerous signature or other requirements to be received from the  
17 customer.

18 C. All electric utilities shall continue to provide metering  
19 services, but customer-specific data shall be released to retail  
20 electric suppliers upon customer consent.

21 D. Customers shall have the ability to select their preferred  
22 billing method including, but not limited to, utility consolidated  
23 billing, supplier consolidated billing, and separate bills. The  
24 Commission shall institute an on-the-record proceeding to develop  
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1 the necessary procedures and requirements to implement alternate  
2 billing methods.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 803.7 of Title 17, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Upon the effective date of this act, the Corporation  
7 Commission shall commence a proceeding to develop a comprehensive  
8 customer education program to ensure that customers have access to  
9 accurate information about their ability to directly access the  
10 competitive market. The proceeding shall explore ways for the  
11 Commission to partner with electric utilities to disseminate  
12 Commission-endorsed educational pieces or engage in a statewide  
13 campaign, as well as appropriate cost recovery from all customers to  
14 support the customer education program.

15 B. The Commission shall explore the use of a publicly available  
16 website option which enables customers to compare products and  
17 services being offered by retail electric suppliers.

18 SECTION 8. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 803.8 of Title 17, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Electric utilities shall continue to provide basic  
22 generation service to industrial and commercial customers that do  
23 not choose a retail electric supplier pursuant to the provisions of  
24 this section.

1 B. Industrial and commercial customers that do not choose a  
2 retail electric supplier shall pay hourly prices for electricity,  
3 along with indirect costs incurred by the electric utility that are  
4 not directly attributable to basic generation service but are  
5 associated with resources that support the provision of basic  
6 generation service. The indirect costs shall be determined through  
7 a fully allocated cost study performed by the electric utility,  
8 which examines each indirect cost category and reasonably allocates  
9 a portion of each cost category used to provide or support basic  
10 generation service to the basic generation service price.

11 SECTION 9. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 803.9 of Title 17, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. No person or entity shall engage in the business of a retail  
15 electric supplier in this state unless the person or entity holds a  
16 license issued by the Corporation Commission. The Commission shall  
17 issue such license only upon finding that the person or entity is  
18 fit, willing, and able to properly perform the service proposed and  
19 to conform to all legal requirements consistent with the public  
20 interest and the policy declared in this act.

21 B. The Commission shall develop:

22 1. A standard written application to gather the information  
23 needed to assess an applicant;

1           2. Internal procedures to process written applications no later  
2 than ninety (90) days after they are properly submitted;

3           3. Financial security requirements to ensure the financial  
4 responsibility of the competitive retail electric supplier, the  
5 supply of electricity at retail in accordance with contracts,  
6 agreements, or arrangements, and the payment of all required  
7 applicable state taxes; and

8           4. Any other guidelines, procedures, or requirements deemed  
9 necessary by the Commission.

10           SECTION 10.           NEW LAW           A new section of law to be codified  
11 in the Oklahoma Statutes as Section 803.10 of Title 17, unless there  
12 is created a duplication in numbering, reads as follows:

13           A. Nothing in this act shall preclude an electric utility from  
14 recovering transition or stranded costs which the Corporation  
15 Commission determines will remain following mitigation by the  
16 electric utility.

17           B. In determining the level of stranded cost recovery, the  
18 Commission shall seek to avoid the shifting of such costs among  
19 classes of industrial and commercial customers.

20           C. Transition or stranded costs include regulatory assets and  
21 other deferred charges, environmental expenses, cost obligations  
22 under long-term contracts, and customer education and other costs  
23 associated with implementing electric choice, in addition to any  
24 costs identified by the Commission.

1 SECTION 11. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 803.11 of Title 17, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. At any time, electric utilities may opt to divest their  
5 generation assets. The assets may be divested by one of the  
6 following options at the discretion of the electric utility:

- 7 1. Sell generation assets to an unaffiliated entity; or
- 8 2. Transfer generation assets to an unregulated affiliate at a  
9 fair market price.

10 B. Once a competitive market for electric generation service is  
11 implemented for commercial and industrial customers, an electric  
12 utility that continues to own generation assets may not use them to  
13 provide basic generation service to its commercial and industrial  
14 customers and may not recover the costs of generation from its  
15 provision of basic generation service to commercial and industrial  
16 customers.

17 C. The Corporation Commission may establish an independent  
18 market monitor to ensure that no entity owns generation assets in an  
19 amount that gives the entity market power.

20 SECTION 12. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 803.12 of Title 17, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. Each electric utility shall submit to the Corporation  
24 Commission a compliance plan to implement direct access to a  
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1 competitive market for the generation of electricity. The plans  
2 shall be submitted within six (6) months after the effective date of  
3 this act.

4 B. A compliance plan shall include, in addition to other  
5 components determined by the Commission, the following:

6 1. Identification and quantification of transition or stranded  
7 costs, along with an explanation of mitigation efforts taken to  
8 minimize these costs;

9 2. A proposed non-bypassable competitive transition charge for  
10 each customer class for the recovery of transition or stranded  
11 costs;

12 3. Proposed unbundled rates for each customer class for  
13 generation, transmission, and distribution services;

14 4. Proposed level of indirect costs to be recovered in the  
15 initial basic generation service price established pursuant to  
16 Section 8 of this act. The Commission-approved amount of indirect  
17 costs to be recovered in the initial basic generation service price  
18 shall be re-evaluated every three (3) years;

19 5. Description of the unbundling process, including an  
20 explanation of the steps taken by the electric utility to ensure  
21 that the proposed unbundled rates do not result in the creation of  
22 cross-subsidies that adversely affect residential customers;

23 6. Procedures for ensuring direct access to all licensed retail  
24 electric suppliers; and

1 7. Revised tariffs and rate schedules implementing the above.

2 C. The Commission shall review each compliance plan and after  
3 evidentiary hearings and providing notice and opportunity to be  
4 heard for all parties, issue an order accepting, modifying, or  
5 rejecting the plan, no later than six (6) months from the filing of  
6 the plan. If the Commission rejects the plan, it shall state the  
7 specific reasons and direct the electric utility to file an  
8 alternative plan within thirty (30) days. The Commission shall  
9 review the alternative plan and solicit comments from interested  
10 parties.

11 D. To the extent the costs are known when a compliance plan is  
12 filed, the plan may be approved for recovery through the non-  
13 bypassable competitive transition charge.

14 SECTION 13. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 803.13 of Title 17, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. The Corporation Commission shall develop regulations to  
18 assure the provision of direct access on equal and nondiscriminatory  
19 terms to all customers and competitive retail electric suppliers;  
20 prevent discrimination in rates, terms, or conditions of service by  
21 electric utilities; prevent the cross-subsidization of service among  
22 customer classes or between related electric utilities and retail  
23 electric suppliers; forbid unfair or deceptive practices; and  
24

1 establish and maintain an effective and vibrant competitive market  
2 in the purchase and sale of retail electricity in the state.

3 B. The Commission shall monitor the market for the supply and  
4 distribution of electricity to customers and take steps to prevent  
5 anti-competitive or discriminatory conduct and the unlawful exercise  
6 of market power.

7 SECTION 14. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 803.14 of Title 17, unless there  
9 is created a duplication in numbering, reads as follows:

10 The Corporation Commission is authorized to investigate and  
11 establish guidelines for any and all retail market enhancement  
12 programs that may facilitate the ability of retail electric  
13 suppliers to offer competitive products and services to customers.  
14 Such programs may include, but are not limited to, purchase of  
15 receivables programs, customer referral programs, and municipal  
16 aggregation programs.

17 SECTION 15. This act shall become effective November 1, 2024.

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