

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 2747

By: Caldwell (Trey)

AS INTRODUCED

An Act relating to public utilities; amending 17 O.S. 2021, Section 286, which relates to electricity; modifying certain requirements; determining fuel type; providing a new application window; determining reasonable alternatives; providing for a separate rate adjustment mechanism allowing for refunds; amending 17 O.S. 2021, Section 291, which relates to definitions; modifying definition; amending 17 O.S. 2021, Section 292, which relates to rights of electric transmission owners; adding description of certain electric transmission facilities; requiring solicitation of competitive bids for construction of certain facilities; requiring certain requests for proposal and bid evaluation to be overseen by appointed independent evaluator; authorizing incumbent electric transmission owner to submit certain bid; amending 17 O.S. 2021, Section 293, which relates to local electric transmission facility; requiring certain notice of intent; creating elections to make new deferrals; allowing for certain increases after certain rate cases; determining the start of new deferrals; providing for alternative dates; requiring certain reviews by the Commission; allowing for certain assets to be added into rate basis under specific circumstances; providing certain assets not be in specific rate basis to accrue certain costs; allowing for certain expenses and offsets; determining how certain returns are to be calculated; applying certain provisions to certain elections; providing for codification; providing an effective date; and declaring an emergency.

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

3 SECTION 1. AMENDATORY 17 O.S. 2021, Section 286, is
4 amended to read as follows:

5 Section 286. A. 1. The portion of costs incurred by an
6 electric utility, which is subject to rate regulation by the
7 Corporation Commission, for transmission upgrades approved by a
8 regional transmission organization to which the utility is a member
9 and resulting from an order of a federal regulatory authority having
10 legal jurisdiction over interstate regulation of transmission rates,
11 shall be presumed recoverable by the utility. The presumption
12 established in this paragraph may be rebutted by evidence that the
13 costs so incurred by the utility for the transmission upgrades
14 exceed the scope of the project authorized by the regional
15 transmission organization or order issued by the federal regulatory
16 authority having jurisdiction over interstate regulation of
17 transmission rates. The Commission shall transmit rules to
18 implement the requirements of this subsection to the Legislature on
19 or before April 1, 2006. The rules may authorize an electric
20 utility to periodically adjust its rates to recover all or a portion
21 of the costs so incurred by the utility for the transmission
22 upgrades.

23 2. Reasonable costs incurred by an electric utility for
24 transmission upgrades:

1 a. needed to develop wind generation in this state,
2 b. approved by the Southwest Power Pool, and
3 c. placed into service before December 31, 2013,
4 shall be presumed recoverable through a periodic adjustment in the
5 rates of the utility, provided that the presumption of the recovery
6 of such costs or the recovery of such costs through a periodic
7 adjustment in rates may be rebutted by evidence presented to the
8 Commission. The determination of whether the costs shall be
9 recovered and whether the costs shall be recovered through a
10 periodic adjustment of rates shall be made by the Commission
11 following proper notice and hearing in a cause to be filed by the
12 electric utility in which it files such information as the
13 Commission may require.

14 B. An electric utility subject to rate regulation by the
15 Corporation Commission may file an application seeking Commission
16 authorization of a plan by the utility to make capital expenditures
17 for equipment or facilities necessary to comply with the federal
18 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive
19 Environmental Response, Compensation, and Liability Act (CERCLA),
20 the Emergency Planning & Community Right-to-Know Act (EPCRA), the
21 Endangered Species Act (ESA), the National Environmental Policy Act
22 (NEPA), the Occupational Safety and Health Act (OSHA), the Oil
23 Pollution Act (OPA), the Pollution Prevention Act (PPA), the
24 Resource Conservation and Recovery Act (RCRA), the Safe Drinking

1 Water Act (SDWA), the Toxic Substances Control Act (TSCA), all as
2 amended, and, as the Commission may deem appropriate, federal,
3 state, local or tribal environmental requirements which apply to
4 generation facilities. If approved by the Commission, after notice
5 and hearing, the equipment or facilities specified in the approved
6 utility plan are conclusively presumed used and useful. The utility
7 may elect to periodically adjust its rates to recover the costs of
8 the expenditures. The utility shall file a request for a review of
9 its rates pursuant to Section 152 of this title no more than twenty-
10 four (24) months after the utility begins recovering the costs
11 through a periodic rate adjustment mechanism and no more than
12 twenty-four (24) months after the utility begins recovering the
13 costs through any subsequent periodic rate adjustment mechanism.
14 Provided further, that a periodic rate adjustment or adjustments are
15 not intended to prevent a utility from seeking cost recovery of
16 capital expenditures as otherwise may be authorized by the
17 Commission. However, the reasonableness of the costs to be
18 recovered by the utility shall be subject to Commission review and
19 approval. The Commission shall promulgate rules to implement the
20 provisions of this subsection, such rules to be transmitted to the
21 Legislature on or before April 1, 2007.

22 C. 1. An electric utility subject to rate regulation by the
23 Corporation Commission may elect to file an application seeking
24 approval by the Commission to construct a new electric generating

1 facility, to purchase an existing electric generation facility or
2 enter into a long-term contract for purchased power and capacity
3 and/or energy, subject to the provisions of this subsection. If,
4 and to the extent that, the Commission determines there is a need
5 for construction or purchase of the electric generating facility or
6 long-term purchase power contract, the generating facility or
7 contract shall be considered used and useful and its costs shall be
8 subject to cost recovery rules promulgated by the Commission. The
9 Commission shall enter an order on an application filed pursuant to
10 this subsection within two hundred forty (240) days of the filing of
11 the application, unless the generation facility utilizes natural gas
12 as its primary fuel source, following notice and hearing and after
13 consideration of reasonable alternatives. If the generation
14 facility uses natural gas as its primary fuel source, the Commission
15 shall enter an order on an application filed pursuant to this
16 subsection within one hundred eighty (180) days of the filing of the
17 application, following notice and hearing and after consideration of
18 the reasonable alternative.

19 2. Regardless of the generation source, bids received by the
20 utility through a competitive bidding process within twelve (12)
21 months following the final bid due date of such competitive bidding
22 process shall be considered substantial evidence to satisfy the
23 consideration of reasonable alternatives.

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1 ~~2.~~ 3. Following receipt of an application filed pursuant to
2 this subsection, the Corporation Commission staff may file a request
3 to assess the specific costs, to be paid by the electric utility and
4 which shall be deemed to be recoverable, for the costs associated
5 with conducting the analysis or investigation of the application
6 including, but not limited to, the cost of acquiring expert
7 witnesses, consultants, and analytical services. The request shall
8 be filed at and heard by the Corporation Commissioners in the docket
9 opened by the electric utility pursuant to this subsection. After
10 notice and hearing, the Commission shall decide the request.

11 ~~3.~~ 4. Additionally, following receipt of an application filed
12 pursuant to this subsection, the Office of the Attorney General may
13 file a request with the Corporation Commission for the assessment of
14 specific costs, to be paid by the electric utility and which shall
15 be deemed to be recoverable, associated with the performance of the
16 Attorney General's duties as provided by law. Those costs may
17 include, but are not limited to, the cost of acquiring expert
18 witnesses, consultants and analytical services. The request shall
19 be filed at and heard by the Corporation Commissioners in the docket
20 opened by the electric utility pursuant to this subsection. After
21 notice and hearing, the Commission shall decide the request.

22 ~~4.~~ 5. The Commission shall promulgate rules to implement the
23 provisions of this subsection. The rules shall be transmitted to
24 the Legislature on or before April 1, 2006. In promulgating rules

1 to implement the provisions of this subsection, the Commission shall
2 consider, among other things, rules which would:

3 a. permit contemporaneous utility recovery from its
4 customers, the amount necessary to cover the
5 Corporation Commission staff and Attorney General
6 assessments as authorized by this subsection,

7 b. establish how the cost of facilities approved pursuant
8 to this subsection shall be timely reviewed, approved,
9 and recovered or disapproved, and

10 c. establish the information which an electric utility
11 must provide when filing an application pursuant to
12 this subsection.

13 ~~5.~~ 6. The Commission shall ~~also consider rules which may permit~~
14 an electric utility to begin to recover return on ~~or~~ and return of
15 Construction-Work-In-Progress expenses prior to commercial operation
16 of a newly constructed electric generation facility subject to the
17 provisions of this subsection, provided the newly constructed
18 electric generation facility utilizes natural gas as its primary
19 fuel source. The Commission shall permit a separate rate adjustment
20 mechanism, adjusted periodically, to recover the costs described in
21 this section. If a public utility implements a rate adjustment
22 mechanism pursuant to this section and subsequently terminates the
23 initiative to construct or acquire a stake in a generating facility,
24 the Commission shall have the authority, following notice and

1 hearing, to order the public utility to refund customers any amounts
2 collected through such rate adjustment mechanism. In ordering any
3 such refund, the Commission shall give consideration as to the
4 circumstances resulting in the termination of the construction or
5 acquisition.

6 SECTION 2. AMENDATORY 17 O.S. 2021, Section 291, is
7 amended to read as follows:

8 Section 291. As used in this act:

- 9 1. "Commission" means the Corporation Commission;
- 10 2. "Incumbent electric transmission owner" means any Oklahoma
11 electric public utility, as recognized by the Commission, or its
12 affiliates, or subsidiaries or any electric cooperative, any
13 municipal power agency or any municipal utility that owns, operates
14 and maintains an electric transmission facility in this state or any
15 public utility, as recognized by the Commission, that is engaged in
16 the development of an electric transmission facility in the state as
17 of the effective date of this act;
- 18 3. "Local electric transmission facility" means a high-voltage
19 transmission line or high-voltage associated transmission facilities
20 with a rating of greater than sixty-nine (69) kilovolts and less
21 than three hundred (300) kilovolts; and
- 22 4. "Southwest Power Pool" means the Southwest Power Pool or any
23 federally recognized successor entity.

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1 SECTION 3. AMENDATORY 17 O.S. 2021, Section 292, is
2 amended to read as follows:

3 Section 292. A. ~~An~~ For any local electric transmission
4 facility with a rating greater than sixty-nine (69) kilovolts and
5 less than three hundred (300) kilovolts, an incumbent electric
6 transmission owner has the right to construct, own and maintain a
7 ~~local electric transmission~~ any such facility that has been approved
8 for construction in a Southwest Power Pool transmission plan and
9 will interconnect to facilities owned by that incumbent electric
10 transmission owner. An incumbent electric transmission owner has
11 the right to construct, own and maintain:

- 12 1. A new local electric transmission facility that connects to
- 13 electric transmission facilities owned by the incumbent; and
- 14 2. Upgrades to the existing local electric transmission
- 15 facilities of the incumbent.

16 B. For any local electric transmission facility with a rating
17 greater than three hundred (300) kilovolts with a need date within
18 three (3) years, as determined by the Southwest Power Pool, an
19 incumbent electric transmission owner has the right to construct,
20 own, and maintain any such facility that has been approved for
21 construction in a Southwest Power Pool transmission plan and will
22 interconnect to facilities owned by that incumbent electric
23 transmission owner. An incumbent electric transmission owner has
24 the right to construct, own, and maintain:

1 1. The new local electric transmission facility that connects
2 to electric transmission facilities owned by the incumbent; and

3 2. Upgrades to the existing local electric transmission
4 facilities of the incumbent.

5 C. For any local electric transmission facility with a rating
6 greater than three hundred (300) kilovolts with a need date greater
7 than three (3) years, and determined by the Southwest Power Pool, an
8 incumbent electric transmission owner has the right to own and
9 maintain any such facility that has been approved for construction
10 in a Southwest Power Pool transmission plan and will interconnect to
11 facilities owned by that incumbent electric transmission owner, if
12 the incumbent electric transmission owner issues a request for
13 proposal which solicits competitive bids for construction of the
14 facility. The request for proposal and associated bid evaluation
15 and selection shall be overseen by an independent evaluator
16 appointed by the Oklahoma Corporation Commission. Nothing herein
17 shall prohibit an incumbent electric transmission owner from
18 submitting its own bid to construct such a facility. An incumbent
19 electric transmission owner has the right to own and maintain:

20 1. A new local electric transmission facility that connects to
21 electric transmission facilities owned by the incumbent; and

22 2. Upgrades to the existing local electric transmission
23 facilities of the incumbent.

1 D. The right to construct, own and maintain a local electric
2 transmission facility that will interconnect to facilities owned by
3 two or more incumbent electric transmission owners belongs
4 individually and equally to each incumbent electric transmission
5 owner, unless otherwise agreed upon in writing by the incumbent
6 electric transmission owners.

7 ~~E.~~ E. Nothing in this section is intended to affect an
8 incumbent electric transmission owner's use and control of its
9 existing property rights including the incumbent electric
10 transmission owner's ability to assign its rights to construct, own
11 and maintain a local electric transmission facility described in
12 subsection A of this section. The retention, modification or
13 transfer of existing property rights of an incumbent electric
14 transmission owner and the rights described in subsection A of this
15 section shall remain subject to the relevant state law or regulation
16 recognizing the property right.

17 F. An electric cooperative which is not a member of the
18 Southwest Power Pool may construct, own, and maintain local electric
19 transmission facilities without regard to the provisions of this
20 section.

21 SECTION 4. AMENDATORY 17 O.S. 2021, Section 293, is
22 amended to read as follows:

23 Section 293. A. If the Southwest Power Pool has approved a
24 local electric transmission facility in a Southwest Power Pool

1 transmission plan and has formally directed the incumbent electric
2 transmission owner or owners, if there is more than one owner, to
3 construct, own and maintain the local electric transmission
4 facility, the incumbent electric transmission owner or owners shall
5 give notice to the Southwest Power Pool, in writing, within ninety
6 (90) days of receipt of the direction to construct by the Southwest
7 Power Pool, regarding its intent to construct, own and maintain the
8 local electric transmission facility pursuant to subsection A or B
9 of Section 292 of this title of its intent to own and maintain the
10 local electric transmission facility pursuant to subsection C of
11 Section 292 of this title. If notice is not provided, the incumbent
12 electric transmission owner shall surrender its right to construct,
13 own and maintain the local electric transmission facility.

14 B. If an incumbent electric transmission owner or owners give
15 notice of intent not to construct the local electric transmission
16 facility or fail to provide notice as required in subsection A of
17 this section, then the Southwest Power Pool may determine whether
18 the incumbent electric transmission owner or owners or other entity
19 will construct, own and maintain the local electric transmission
20 facility.

21 C. Nothing in this section is intended to limit the ability of
22 any person to notify the Southwest Power Pool that it believes an
23 incumbent electric transmission owner with the right to construct,
24 own and maintain a local electric transmission facility originally

1 approved by the Southwest Power Pool has failed to exercise its
2 right to construct, own and maintain the local electric transmission
3 facility within a reasonable period of time and request that the
4 Southwest Power Pool rescind the right to construct, own and
5 maintain the local electric transmission facility and assign the
6 rights to another incumbent electric transmission owner.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 295 of Title 17, unless there is
9 created a duplication in numbering, reads as follows:

10 A. Commencing on July 1, 2025, a public utility shall defer to
11 a regulatory asset ninety percent (90%) of all depreciation expense
12 and return associated with all qualifying electric plants recorded
13 to plant-in-service on the utility's books, provided the public
14 utility has provided notice to the Commission of the public
15 utility's election to make such deferrals pursuant to this section.
16 Qualifying electric plant shall include all incremental electric
17 plant added to plant-in-service by a public utility since the
18 utility's last general rate case, except transmission facilities or
19 new electric generating units.

20 B. Such deferral shall begin on July 1, 2025, if the public
21 utility has notified the Commission of the public utility's election
22 to make such deferral by such date or shall begin on the date that
23 such election is made if such election is made after July 1, 2025.

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1 C. The Commission shall conduct a prudence review of the
2 associated qualifying electric plant resulting in the regulatory
3 asset balances prior to moving such balances into the public
4 utility's rate base. The regulatory asset balances arising under
5 this section shall be adjusted to reflect any prudence disallowances
6 of the associated qualifying electric plant, following notice and
7 hearing, as ordered by the Commission.

8 D. In each general rate proceeding concluded after July 1,
9 2025, the balance of the regulatory asset as the end of the test
10 year shall be included in the public utility's rate base without any
11 offset, reduction or adjustment based upon consideration of any
12 other factor with the regulatory asset balances arising from the
13 deferrals associated with qualifying electric plant placed in
14 service after the end of the test year to be included in the rate
15 base in the next general rate proceeding, unless otherwise provided
16 in this section.

17 E. Parts of regulatory asset balances created under this
18 section that are not included in rate base shall accrue carrying
19 costs as the public utility's weighted average cost of capital, plus
20 applicable federal, state and local income or excise taxes.
21 Regulatory asset balances arising under this section that are
22 included in the rate base shall be recovered through a twenty-year
23 amortization beginning on the date new rates reflecting such
24 amortization take effect.

1 F. Depreciation expense deferred under this section shall
2 account for any qualifying electric plant placed into service less
3 any applicable retirements. Returns deferred under this section
4 shall be determined using the weighted average cost of capital
5 approved by the Commission in the public utility's last general rate
6 case and applied to the change in regulatory asset balances caused
7 by the qualifying electric plant, plus applicable federal, state and
8 local income or excise taxes. In determining the return deferred,
9 the public utility shall account for changes in all plant-related
10 accumulated deferred income taxes and changes in accumulated
11 depreciation, excluding retirements.

12 G. This section shall only apply to any public utility that has
13 elected to make the deferrals for which this section provides and
14 has filed a notice of such election with the Commission.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 801.10 of Title 17, unless there
17 is created a duplication in numbering, reads as follows:

18 No retail electric supplier, as defined in Section 158.22 of
19 Title 17 of the Oklahoma Statute, shall offer rate-payer-funded
20 incentives, rebates, or inducements to its customers to promote the
21 switching of fuel sources from natural gas to electricity.

22 SECTION 7. This act shall become effective July 1, 2025.

23 SECTION 8. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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