

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 1103

By: Treat

AS INTRODUCED

An Act relating to electric utilities; amending 17 O.S. 2021, Section 291, which relates to public utility resources; modifying definition; creating the Ratepayer Protection Act of 2023; providing short title; defining terms; providing option for certain electric utilities to file certain plan notice; establishing provisions of plan notice; providing for approval of certain plan subject to certain regulation; prohibiting certain electric utilities from filing certain applications prior to certain date; requiring certain rates to remain in effect during certain plan term subject to certain rate adjustments; requiring certain electric utilities to file certain information within application; providing for certain testimony to plan applications be submitted by certain date; requiring certain response to testimony be submitted by certain date; requiring the Corporation Commission to hold certain hearing by certain date; requiring Commission to issue final order by certain date; providing for certain rates to go into immediate effect upon issuance of final order; providing for the Commission to require security under certain circumstances; requiring order by Commission to specify certain information for certain filing; requiring certain application to utilize certain data; providing for utility to file certain application and notice for certain term; requiring certain approved rates to continue in force until certain date; requiring rates to be adjusted subject to certain provisions; requiring certain refund to customer under certain circumstances; requiring adjustments to only occur once per year; requiring certain rates to continue in force subject to certain circumstances; providing for withdrawal process; construing provisions; requiring

1 certain electric utilities to offer certain rate  
2 options; requiring utility to submit certain rate  
3 option proposals to Commission; requiring certain  
4 notice be provided to customers; requiring certain  
5 electric utility to administer certain program;  
6 establishing provisions of program; requiring  
7 promulgation of rules by Commission; prohibiting an  
8 electric utility from disconnecting service to a  
9 customer under certain conditions; requiring electric  
10 utility to maintain certain list; requiring list  
11 distribution; requiring certain electric utilities  
12 using natural gas electric generation to maintain  
13 certain supply by certain date; providing for certain  
14 electric utility to enter into certain storage  
15 agreements; providing for codification; and declaring  
16 an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 2021, Section 291, is amended to read as follows:

Section 291. As used in this act:

1. "Commission" means the Corporation Commission;
2. "Incumbent electric transmission owner" means any Oklahoma electric public utility, as recognized by the Commission, or its affiliates, or subsidiaries, or any electric cooperative, any municipal power agency, or any municipal utility that owns, operates, and maintains an electric transmission facility in this state, or any public utility, as recognized by the Commission, that is engaged in the development of an electric transmission facility in the state as of the effective date of this act;

1           3. "Local electric transmission facility" means a high-voltage  
2 transmission line or high-voltage associated transmission facilities  
3 with a rating of ~~greater than sixty-nine (69) kilovolts and less~~  
4 ~~than three hundred (300) kilovolts~~ or greater; and

5           4. "Southwest Power Pool" means the Southwest Power Pool or any  
6 federally recognized successor entity.

7           SECTION 2.       NEW LAW       A new section of law to be codified  
8 in the Oklahoma Statutes as Section 803.1 of Title 17, unless there  
9 is created a duplication in numbering, reads as follows:

10           Sections 2 through 12 of this act shall be known and may be  
11 cited as the "Ratepayer Protection Act of 2023".

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

15           As used in this act:

16           1. "Asset manager" means any third party that is authorized to  
17 sell, market, or utilize excess natural gas capacity that electric  
18 utilities do not need or are not critical for operation during non-  
19 winter months;

20           2. "Commission" means the Corporation Commission;

21           3. "Customer utility bill relief program" means a program to be  
22 administered by an electric utility subject to retail rate  
23 regulation by the Commission, to be offered to residential customers  
24

1 of the utility for the purposes of providing bill relief options to  
2 customers;

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

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

10 6. "Historical year" means the test period selected by the  
11 electric utility in its performance-based rate plan notice;

12 7. "Natural gas electric generation" means a machine or  
13 machines that use natural gas to produce capacity, energy, or other  
14 electricity products;

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

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

1 10. "Performance-based rate plan application filing date" means  
2 the last day of the year in which an electric utility shall file its  
3 annual performance-based rate plan application before the  
4 Commission, unless a modification to such date is requested by a  
5 utility and approved by the Commission;

6 11. "Performance-based rate plan notice" means the request  
7 filed before the Commission electing to utilize a performance-based  
8 rate plan, which shall be included with a general rate case  
9 application filed before the Commission;

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

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

17 14. "Winter months" means the time period between December 21  
18 of a given year through March 20 of the following year.

19 SECTION 4. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 803.3 of Title 17, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. 1. An electric utility filing an application for a general  
23 change to its rates and charges under this section and pursuant to  
24 the rules of the Corporation Commission may, as part of a general  
25

1 rate change application, file a performance-based rate plan notice  
2 before the Commission indicating the utility is electing to have its  
3 rates regulated under a performance-based rate plan as authorized  
4 and defined by this act.

5 2. The performance-based rate plan notice shall define the  
6 historical year to be selected by the utility and utilized in each  
7 performance-based rate plan application during the performance-based  
8 rate plan term.

9 B. 1. The Commission shall grant the utility's performance-  
10 based rate plan notice to elect rate regulation under a performance-  
11 based rate plan, as authorized and defined by this act.

12 2. The Commission shall regulate the rates of the utility in  
13 accordance with the terms of this act during the performance-based  
14 rate plan term and any tariff approved by the Commission that does  
15 not otherwise conflict with the terms of this act.

16 C. An electric utility shall not file its first performance-  
17 based rate plan application of any performance-based rate plan term  
18 until at least one hundred eighty (180) days after rates have become  
19 effective pursuant to the final order on the application for a  
20 general change in rates.

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

1 E. 1. An approved performance-based rate plan shall require  
2 the utility to file the information required by the Commission  
3 pursuant to this section on the performance-based rate plan  
4 application filing date.

5 2. An approved performance-based rate plan shall require any  
6 party, according to the Commission's rules and procedures, to file  
7 with the Commission testimony in response to the utility's  
8 performance-based rate plan application no later than seventy-five  
9 (75) calendar days after the utility's performance-based rate plan  
10 application filing date.

11 3. An approved performance-based rate plan shall require the  
12 utility to file with the Commission any rebuttal to a party's  
13 testimony under paragraph 1 of this subsection within ninety (90)  
14 calendar days after the performance-based rate plan filing date.

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

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

1 effect, at the utility's discretion, subject to refund following the  
2 issuance of a final 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 5. 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 Corporation 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 selected by the utility.

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 performance-based rate term,  
19 the utility may file a general rate case application and may elect  
20 to include a new performance-based rate notice with such application  
21 for a new performance-based rate term. Rates approved pursuant to a  
22 utility's most recent performance-based rate application shall  
23 continue until a final order in the utility's next general rate case  
24 application is issued and the compliance tariffs are approved.



1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 803.5 of Title 17, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. 1. Rates shall be adjusted in a performance-based rate  
5 application based on a comparison of the earned return on equity to  
6 the target return on equity.

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

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

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

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

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

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

7           C. 1. In a performance-based rate application, if the earned  
8 return on equity is greater than the dead-band, a refund shall be  
9 issued to customers over a twelve-month period. The refund shall be  
10 seventy-five percent (75%) of such revenues associated with the  
11 earned return on equity greater than the dead-band and shall be  
12 credited or returned to utility customers. The remaining twenty-  
13 five percent (25%) of such revenues associated with the earned  
14 return on equity greater than the dead-band shall be retained by the  
15 utility and reinvested in the utility's power delivery  
16 infrastructure to improve reliability and resilience.

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. A utility may file a general rate case application or seek  
10 any other relief it may be entitled to under this act at any time  
11 during the performance-based rate term.

12 SECTION 7. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 803.6 of Title 17, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. In the event that an electric utility files a performance-  
16 based rate notice, all existing tariffs approved by the Corporation  
17 Commission providing separate cost recovery outside of base rates  
18 shall continue to be effective outside the performance-based rate  
19 unless those tariffs are proposed to be eliminated at the discretion  
20 of the utility.

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

1 C. The utility may withdraw its election to have its rates  
2 regulated pursuant to this act at any time. Upon withdrawal, all  
3 existing rates and charges shall continue until a final order in the  
4 utility's next general rate case application is issued and the  
5 compliance tariffs are approved.

6 D. 1. Nothing in this act shall be construed to prohibit  
7 utilities from requesting approval of additional optional rate  
8 offerings to customers.

9 2. Nothing in this act shall be construed to repeal any other  
10 provision of law and is supplemental to all other laws governing the  
11 regulation of public utility rates.

12 3. Nothing in this act shall prohibit the Commission from  
13 exercising its powers under any other statute or the Constitution of  
14 the State of Oklahoma.

15 SECTION 8. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 804.1 of Title 17, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. All electric utilities subject to retail rate regulation by  
19 the Corporation Commission shall offer rate options for residential  
20 customers of the electric utility to protect them from price  
21 volatility. Each utility shall, at a minimum, offer the following  
22 rate options:

23 1. An average monthly billing plan; and

24  
25

1           2. An annual flat bill tariff option, for a premium, that  
2 results in the same total bill for a twelve-month period. The  
3 tariff option shall be available to a residential customer who has  
4 resided at his or her current residence for the previous twelve (12)  
5 months, has had his or her electricity priced on the applicable  
6 residential tariffs and riders over the past twelve (12) months, and  
7 is currently in good standing with the utility.

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

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

17           SECTION 9.           NEW LAW           A new section of law to be codified  
18 in the Oklahoma Statutes as Section 804.2 of Title 17, unless there  
19 is created a duplication in numbering, reads as follows:

20           A. An electric utility subject to retail rate regulation by the  
21 Corporation Commission shall propose and be responsible for the  
22 administration of a customer utility bill relief program. Proposed  
23 programs shall be filed with the Commission or included with a  
24 general rate case application for approval.

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

3 1. A process and criteria for application by an eligible  
4 customer;

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

7 3. Extended payment plans;

8 4. Criteria for suspension of disconnection activity in  
9 addition to weather disconnection moratoriums; and

10 5. Explanation of the utility's plan for recovery of prudently  
11 incurred program costs and any uncollectable balances incurred as a  
12 result of the program.

13 C. The Commission shall promulgate rules to implement the  
14 provisions of this section.

15 SECTION 10. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 804.3 of Title 17, unless there  
17 is created a duplication in numbering, reads as follows:

18 An electric utility subject to retail rate regulation by the  
19 Corporation Commission shall not disconnect service to a customer  
20 for any of the following reasons:

21 1. Failure to pay for a different kind or classification of  
22 service from that requested;

23 2. Failure to pay a bill correcting a previous underbilling,  
24 due to misapplication of rates, unless the utility offers the  
25

1 consumer a deferred payment agreement as provided in administrative  
2 rule by the Commission;

3 3. Failure of a previous owner or occupant at the premises or  
4 user of the service to pay an unpaid or delinquent account, except  
5 where the previous occupant remains an occupant or user of the  
6 utility service;

7 4. Failure of a customer to pay any portion of an estimated  
8 billing which the customer disputes, except where the customer fails  
9 to allow a utility representative access to the meter, or if the  
10 customer regularly reads the customer's own meter and fails to  
11 supply a current meter reading;

12 5. If a current customer in good standing accepts an additional  
13 household member owing a previous bill to the utility, unless that  
14 additional household member is listed on the lease arrangements or  
15 another utility service as a responsible party, or unless the  
16 household member shared service with the subscriber at a different  
17 or same location;

18 6. If a customer or potential customer owes a previously unpaid  
19 account from a different utility beyond the boundaries of the  
20 utility's service territory;

21 7. In the case of a violation protested by a customer, whose  
22 name was used to obtain service at another location without the  
23 customer's permission or knowledge; provided, however, such misuse  
24 shall be verified by the utility;

1 8. Nonpayment of an amount past due for more than three (3)  
2 years if the utility cannot substantiate the charges with a copy of  
3 the customer's complete billing history reflecting usage,  
4 consumption, and relevant charges; and

5 9. Failure to pay a past due amount to another utility.

6 SECTION 11. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 804.4 of Title 17, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. 1. An electric utility subject to retail rate regulation by  
10 the Corporation Commission shall compile and maintain a list  
11 containing the name, address, and phone number of any known payment  
12 assistance program, including information regarding any bilingual  
13 services offered, that is applicable to each service area within the  
14 utility's areas of operation. The list should include but not be  
15 limited to local, state, federal, and tribal energy assistance  
16 programs. The list shall also include any public or private  
17 charitable organization that offers or has been known to offer  
18 energy payment assistance; provided, the organization shall give  
19 prior consent for inclusion on this list.

20 2. Electric utilities shall use due diligence in compiling and  
21 updating this information, with updates to occur at least on an  
22 annual basis.



1           3. Each electric utility subject to the provisions of this  
2 section shall provide a copy of this list to any consumer who asks  
3 for or requests such assistance.

4           B. The offer of any such list under this section shall be for  
5 informative resource only. Failure of a customer to gain funding in  
6 full or in part from any of the listed resources under this section  
7 shall not result in any liability to the electric utility.

8           SECTION 12.       NEW LAW       A new section of law to be codified  
9 in the Oklahoma Statutes as Section 805.1 of Title 17, unless there  
10 is created a duplication in numbering, reads as follows:

11           A. An electric utility subject to retail rate regulation by the  
12 Corporation Commission that utilizes natural gas electric generation  
13 and has firm gas transportation contracts shall, by December 2026,  
14 maintain a firm supply of enough natural gas to operate its  
15 facilities at an eighty percent (80%) maximum daily quantity under  
16 firm gas transportation contracts for fourteen (14) consecutive days  
17 during the winter months to protect customers from adverse weather  
18 events and supply chain issues. Of the above required firm supply  
19 of natural gas, at least fifty percent (50%) of that firm supply  
20 shall be satisfied by firm storage services, if available.

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 One-half (1/2) of any monetary or financial benefits derived from  
2 storage management contracts with an asset manager, the electric  
3 utility's self-optimized services, or any combination thereof shall  
4 be returned to customers to mitigate the costs of increased storage  
5 capacity required in subsection A of this section.

6 C. Electric utilities subject to the provisions of this section  
7 shall be entitled to recover costs for the firm supply requirements  
8 of this section.

9 D. The Commission shall have the authority to promulgate any  
10 rules and regulations necessary to effectuate the provisions of this  
11 section.

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

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