

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3274

By: Boles of the House

and

Hall of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to cities and towns; amending 11 O.S.
12 2011, Section 24-107, which relates to Oklahoma
13 Municipal Power Authority; providing certain
14 exemptions; and providing an effective date.

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

17 SECTION 1. AMENDATORY 11 O.S. 2011, Section 24-107, is
18 amended to read as follows:

19 Section 24-107. (a) The Oklahoma Municipal Power Authority
20 shall have and is hereby authorized to exercise all powers, rights
21 and privileges enumerated in this section. Such powers, rights and
22 privileges shall be exercised by its Board of Directors unless
23 otherwise specifically provided herein or by the bylaws of the
24 Authority as in effect from time to time.

1 (b) The Authority may plan, finance, acquire, construct,
2 reconstruct, own, lease, operate, maintain, repair, improve, extend
3 or otherwise participate, individually or jointly with other
4 persons, in one or more projects, proposed, existing or under
5 construction, and may act as agent, or designate one or more
6 persons, whether or not participating in a project, to act as its
7 agent, in connection with the planning, financing, acquisition,
8 construction, reconstruction, ownership, lease, operation,
9 maintenance, repair, extension or improvement of the project.

10 (c) The Authority may investigate the desirability of and
11 necessity for additional sources and supplies of electrical energy
12 and fuel and other supplies of any kind for such purpose, and make
13 studies, surveys and estimates as may be necessary to determine the
14 feasibility and cost thereof.

15 (d) The Authority may cooperate with other persons in the
16 development of sources and supplies of electrical energy and fuel
17 and other supplies of any kind for such purposes, and give
18 assistance with personnel and equipment in any project.

19 (e) The Authority may apply to any person for consents,
20 authorizations or approvals required for any project within its
21 powers and take all actions necessary to comply with the conditions
22 thereof.

23 (f) The Authority may perform any act authorized by this act
24 through, or by means of, its officers, agents or employees or by

1 contract with any person, including, without limitation, the
2 employment of engineers, architects, attorneys, appraisers,
3 financial advisors and such other consultants and employees as may
4 be required in the judgment of the Board of Directors, and fix and
5 pay their compensation from funds available to the Authority
6 therefor.

7 (g) The Authority may acquire, hold, use and dispose of income,
8 revenues, funds and money.

9 (h) The Authority may, individually or jointly with other
10 persons, acquire, own, hire, use, operate and dispose of personal
11 property and any interest therein.

12 (i) The Authority may, individually or jointly with other
13 persons, acquire, own, use, lease as lessor or lessee, operate and
14 dispose of real property and interests in real property, including
15 projects existing, proposed or under construction, and make
16 improvements thereon.

17 (j) The Authority may grant the use by franchise, lease or
18 otherwise and make charges for the use of any property or facility
19 owned or controlled by it.

20 (k) The Authority may borrow money and issue negotiable bonds,
21 secured or unsecured, in accordance with this act, and may enter
22 into interest rate swaps and other derivative products, and other
23 financial instruments intended to hedge interest rate risk or manage
24 interest rate costs, including any option to enter into or terminate

1 any of them, that the Authority deems to be necessary or desirable
2 in connection with any bonds issued prior to, at the same time as,
3 or after entering into such arrangement, and containing such terms
4 and provisions, and may be with such parties, as determined by the
5 Authority. Provided, any action taken by the Authority pursuant to
6 this subsection must first be approved by the Office of the State
7 Bond Advisor and the Council of Bond Oversight pursuant to the
8 provisions of the Oklahoma Bond Oversight and Reform Act.

9 (l) The Authority may invest money of the Authority not
10 required for immediate use, including proceeds from the sale of any
11 bonds.

12 (m) The Authority may exercise the power of eminent domain in
13 accordance with the provisions of Section 24-110 of this title.

14 (n) The Authority may determine the location and character of,
15 and all other matters in connection with, any and all projects it is
16 authorized to acquire, hold, establish, effectuate, operate or
17 control.

18 (o) The Authority may contract with any person for the
19 planning, development, construction, operation, sale or lease as
20 lessor or lessee of any project or for any interest therein, on such
21 terms and for such period of time as its Board of Directors shall
22 determine.

23 (p) The Authority may contract with any eligible public agency,
24 any public trust, or any other person for the sale of power and

1 energy, transmission services, power supply development services or
2 other services within or without the State of Oklahoma on such terms
3 and conditions as the Board of Directors shall approve. Any such
4 contract may be for the sale of output and services of a particular
5 project or may be for output and services generally without regard
6 to a specific project and may be for the supply of a specific
7 quantity of output or a percentage of the output of a specific
8 project or other specific facility or may be based on the
9 requirements of the purchaser or may be on such other terms and
10 conditions as the Board of Directors deems appropriate.

11 (q) The Authority may enter into any contract or agreement
12 necessary, appropriate or incidental to the effectuation of its
13 lawful purposes and the exercise of the powers granted by this act,
14 including, without limitation, contracts or agreements for the
15 purchase, sale, exchange, interchange, wheeling, pooling,
16 transmission or storage of electric power and energy, and fuel and
17 other supplies of any kind for any such purposes, within and without
18 the State of Oklahoma, in such amounts as it shall determine to be
19 necessary and appropriate to make the most effective use of its
20 powers and to meet its responsibilities, on such terms and for such
21 period of time as the Board of Directors determines, and derivative
22 or other instruments intended to hedge fuel cost risk associated
23 with any projects or power purchases or supply arrangements of the
24 Authority, or to hedge fixed or variable interest rate exposure

1 associated with permitted investments, including any option to enter
2 into or terminate any of them, that the Authority deems to be
3 necessary or desirable, and containing such terms and provisions,
4 and may be with such parties, as determined by the Authority.

5 (r) In any case in which the Authority participates in a
6 project as a joint owner with one or more persons, the Authority may
7 enter into an agreement or agreements with respect to such project
8 with the other person or persons participating therein, and any such
9 agreement may contain such terms, conditions and provisions
10 consistent with the provisions of the act as the parties thereto
11 shall deem to be in their best interest. Any such agreement may
12 include, but need not be limited to, provisions defining what
13 constitutes a default thereunder and providing for the rights and
14 remedies of the parties thereto upon the occurrence of such a
15 default deemed appropriate by the Board of Directors including, to
16 the extent deemed appropriate, the acquisition by nondefaulting
17 parties of all or any part of the defaulting party's interest;
18 provisions setting forth such restraints on alienation of the
19 interests of the parties in the project as the Board of Directors
20 deems appropriate; provisions for the construction, operation and
21 maintenance of such electric generation or transmission facility by
22 any one or more of the parties to such agreement which party or
23 parties shall be designated in or pursuant to such agreement as
24 agent or parties thereto or by such other means as may be determined

1 by the parties thereto; and provisions for a method or methods of
2 determining and allocating, among or between the parties, costs of
3 construction, operation, maintenance, renewals, replacements,
4 improvements and disposals with respect to such project. In
5 exercising its power to participate in a project as a joint owner
6 with one or more persons, the Authority may not loan its credit to
7 any person which is a joint owner of such project; provided,
8 however, the appropriate allocations of the costs of construction,
9 operation, maintenance, renewals, replacements, improvements and
10 disposals with respect to such project between the Authority and
11 such persons shall not be a loan of credit by the Authority to such
12 persons. In carrying out its functions and activities as such agent
13 with respect to construction, operation and maintenance of a
14 project, such agent shall be governed by the laws and regulations
15 applicable to such agent as a separate legal entity and not by any
16 laws or regulations which may be applicable to any of the other
17 participating parties. Notwithstanding anything contained in any
18 other law to the contrary, pursuant to the terms of any such
19 agreement, the Authority may delegate its powers and duties with
20 respect to the construction, operation and maintenance of such
21 project to the person acting as agent; and all actions taken by such
22 agent in accordance with the provisions of such agreement may be
23 made binding upon the Authority without further action or approval
24 by the Authority.

1 (s) The Authority may procure insurance against any losses in
2 connection with its property, operations or assets in such amounts
3 and from such insurers as it deems desirable, or may self-insure
4 against such losses.

5 (t) The Authority may contract for and accept any gifts, grants
6 or loans of funds or property or financial or other aid in any form
7 from any person, and may comply, subject to the provisions of this
8 act, with the terms and conditions thereof.

9 (u) The Authority may adopt a corporate seal and may sue or be
10 sued.

11 (v) The Authority may exercise all other powers not
12 inconsistent with the Constitution of the State of Oklahoma or the
13 United States Constitution, which powers may be reasonably necessary
14 or appropriate for or incidental to effectuate its authorized
15 purposes or to the exercise of any of the powers enumerated in this
16 act.

17 (w) Notwithstanding any other provision herein seemingly to the
18 contrary, the Authority may not sell output (i) at retail to the
19 ultimate consumers thereof, (ii) to any municipality which does not
20 qualify as an eligible public agency under the definition set forth
21 in subsection (d) of Section 24-105 of this title, or (iii) to any
22 trust created and existing under the provisions of the Local
23 Industrial Development Act, as provided by Sections 651 et seq. of
24 Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of

1 Public Functions Law, as provided by Sections 176 et seq. of Title
2 60 of the Oklahoma Statutes, which does not qualify as a public
3 trust under the definition set forth in subsection (g) of Section
4 24-105 of this title.

5 (x) In addition to the powers, rights and privileges granted in
6 this section, the Authority shall be exempt from the provisions of:

7 1. The Oklahoma Open Records Act exclusively limited to
8 security plans and procedures, including, but not limited to,
9 cybersecurity matters, in the Authority's role as an electric
10 utility regulated by the federal government;

11 2. The Oklahoma Open Meeting Act, exclusively limited to
12 authorizing the Authority's Board of Directors to confer on security
13 plans and procedures, including, but not limited to, cybersecurity
14 matters, in the Authority's role as an electric utility regulated by
15 the federal government; and

16 3. The Information Technology Consolidation and Coordination
17 Act.

18 SECTION 2. This act shall become effective November 1, 2020.
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20 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
21 dated 02/13/2020 - DO PASS, As Amended and Coauthored.
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