

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE  
BILL NO. 1910

By: Peters of the House

and

Crutchfield of the Senate

An Act relating to public utilities; allowing electric utilities to adjust rates for certain transmission costs incurred as a result of regulatory action; requiring submission of a report to the Corporation Commission; allowing the Commission to adjust changes and impose remedies; allowing electric utilities to file applications requesting authorization for certain capital expenditures; providing for adjustment in rates upon approval of application; requiring a report to the Commission; allowing the Commission to adjust rates and impose remedies; allowing electric utilities to file applications requesting construction or purchase of electric generation facilities; providing for recovery of investments in rates; authorizing the Commission to determine minimum costs; providing for codification; and declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to public utilities; providing for rebuttable presumption that cost of certain transmission upgrades to be recoverable for certain electric utilities; requiring Corporation Commission to promulgate rules by certain date; requiring rules to authorize utility to adjust rates for transmission upgrades; providing application process for certain electric utilities to recover cost of certain capital expenditures; authorizing utility to adjust rates to recover certain costs within certain time period; requiring Corporation Commission to promulgate rules by certain date; providing process for certain electric utilities to seek Corporation Commission approval for constructing or purchasing certain electric generation facilities; providing for generation facilities to be considered used and useful and subject to cost recovery rules; requiring Corporation Commission to promulgate necessary rules by certain date; requiring Commission to consider certain information in promulgating rules; authorizing Corporation Commission staff and Attorney General to request payment of certain costs; providing for Corporation Commissioners to decide certain requests; providing for codification; and declaring an emergency.

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 286 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2006, the portion of costs incurred by an electric utility, which is subject to rate regulation by the Corporation Commission, for transmission upgrades approved by a regional transmission organization to which such utility is a member and resulting from an order of a federal regulatory authority having legal jurisdiction over interstate regulation of transmission rates, shall be presumed recoverable by such utility. The presumption established in this subsection may be rebutted by evidence that the costs so incurred by the utility for such transmission upgrades exceed the scope of the project authorized by the regional transmission organization or order issued by such federal regulatory authority having jurisdiction over interstate regulation of transmission rates. The Commission shall transmit rules to implement the requirements of this subsection to the Legislature on or before April 1, 2006. The rules may authorize an electric utility to periodically adjust its rates to recover all or a portion of the costs so incurred by the utility for such transmission upgrades.

B. An electric utility subject to rate regulation by the Corporation Commission may file an application seeking Commission authorization of the utility's plan to make capital expenditures for equipment or facilities necessary to comply with the Federal Clean Air Act, as amended, and, as the Commission may deem appropriate, federal, state, local or tribal environmental requirements which apply to generation facilities. If approved by the Commission, after notice and hearing, the equipment or facilities specified in such approved utility plan are conclusively presumed used and useful. The utility may elect to periodically adjust its rates to

recover the costs of such expenditures; provided that the utility shall file a request for a review of its rates pursuant to Section 152 of Title 17 of the Oklahoma Statutes no less than twenty-four (24) months after the utility begins recovering such costs through a periodic rate adjustment mechanism and no less than twenty-four (24) months after the utility begins recovering such costs through any subsequent periodic rate adjustment mechanism. Provided further, that such periodic rate adjustment or adjustments are not intended to prevent a utility from seeking cost recovery of such capital expenditures as otherwise may be authorized by the Commission. However, the reasonableness of the costs to be recovered by the utility shall be subject to Commission review and approval. The Commission shall promulgate rules to implement the provisions of this subsection, such rules to be transmitted to the Legislature on or before April 1, 2007.

C. 1. An electric utility subject to rate regulation by the Corporation Commission may elect to file an application seeking approval by the Commission to construct a new electric generating facility or to purchase an existing electric generation facility subject to the provisions of this subsection. If, and to the extent that, the Commission determines there is a need for construction or purchase of such electric generating facility, the generating facility shall be considered used and useful and its costs shall be subject to cost recovery rules promulgated by the Commission. The Commission shall enter an order on an application filed pursuant to this subsection within two hundred forty (240) days of the filing of the application, following notice and hearing and after consideration of reasonable alternatives.

2. Following receipt of an application filed pursuant to this subsection, the Corporation Commission staff may file a request to assess the specific costs, to be paid by the electric utility and which shall be deemed to be recoverable, for the costs associated

with conducting the analysis or investigation of the application including but not limited to, the cost of acquiring expert witnesses, consultants, and analytical services. Such request shall be filed at and heard by the Corporation Commissioners in the docket opened by the electric utility pursuant to this subsection. After notice and hearing the Commission shall decide the request.

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

4. The Commission shall promulgate rules to implement the provisions of this subsection. Such rules shall be transmitted to the Legislature on or before April 1, 2006. In promulgating rules to implement the provisions of this subsection, the Commission shall consider, among other things, rules which would:

- a. permit contemporaneous utility recovery from its customers, the amount necessary to cover the Corporation Commission staff and Attorney General assessments as authorized by this subsection,
- b. establish how the cost of facilities approved pursuant to this subsection shall be timely reviewed, approved, and recovered or disapproved, and
- c. establish the information which an electric utility must provide when filing an application pursuant to this subsection.

5. The Commission shall also consider rules which may permit an electric utility to begin to recover return on or return of Construction-Work-In-Progress expenses prior to commercial operation of a newly constructed electric generation facility subject to the provisions of this subsection.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 26th day of April, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2005.

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Presiding Officer of the House  
of Representatives