

1 STATE OF OKLAHOMA

2 1st Session of the 50th Legislature (2005)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1910

By: Peters of the House

and

Crutchfield of the Senate

7
8
9 FLOOR SUBSTITUTE

10 [public utilities - providing for Corporation
11 Commission approval of certain costs -
12 emergency]

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

15 SECTION 1. NEW LAW A new section of law to be codified in
16 the Oklahoma Statutes as Section 286 of Title 17, unless there is
17 created a duplication in numbering, reads as follows:

18 A. Effective July 1, 2006, the portion of costs incurred by an
19 electric utility, which is subject to rate regulation by the
20 Corporation Commission, for transmission upgrades approved by a
21 regional transmission organization to which such utility is a member
22 and resulting from an order of a federal regulatory authority having
23 legal jurisdiction over interstate regulation of transmission rates,
24 shall be presumed recoverable by such utility. The presumption
25 established in this subsection may be rebutted by evidence that the
26 costs so incurred by the utility for such transmission upgrades
27 exceed the scope of the project authorized by the regional
28 transmission organization or order issued by such federal regulatory
29 authority having jurisdiction over interstate regulation of
30 transmission rates. The Commission shall transmit rules to
31 implement the requirements of this subsection to the Legislature on
32 or before April 1, 2006. The rules may authorize an electric

1 utility to periodically adjust its rates to recover all or a portion
2 of the costs so incurred by the utility for such transmission
3 upgrades.

4 B. An electric utility subject to rate regulation by the
5 Corporation Commission may file an application seeking Commission
6 authorization of the utility's plan to make capital expenditures for
7 equipment or facilities necessary to comply with the Federal Clean
8 Air Act, as amended, and, as the Commission may deem appropriate,
9 federal, state, local or tribal environmental requirements which
10 apply to generation facilities. If approved by the Commission,
11 after notice and hearing, the equipment or facilities specified in
12 such approved utility plan are conclusively presumed used and
13 useful. The utility may elect to periodically adjust its rates to
14 recover the costs of such expenditures; provided that the utility
15 shall file a request for a review of its rates pursuant to Section
16 152 of this title no less than twenty-four (24) months after the
17 utility begins recovering such costs through a periodic rate
18 adjustment mechanism and no less than twenty-four (24) months after
19 the utility begins recovering such costs through any subsequent
20 periodic rate adjustment mechanism. Provided further, that such
21 periodic rate adjustment or adjustments are not intended to prevent
22 a utility from seeking cost recovery of such capital expenditures as
23 otherwise may be authorized by the Commission. However, the
24 reasonableness of the costs to be recovered by the utility shall be
25 subject to Commission review and approval. The Commission shall
26 promulgate rules to implement the provisions of this subsection,
27 such rules to be transmitted to the Legislature on or before April
28 1, 2007.

29 C. 1. An electric utility subject to rate regulation by the
30 Corporation Commission may elect to file an application seeking
31 approval by the Commission to construct a new electric generating
32 facility or to purchase an existing electric generation facility

1 subject to the provisions of this subsection. If, and to the extent
2 that, the Commission determines there is a need for construction or
3 purchase of such electric generating facility, the generating
4 facility shall be considered used and useful and its costs shall be
5 subject to cost recovery rules promulgated by the Commission. The
6 Commission shall enter an order on an application filed pursuant to
7 this subsection within two hundred forty (240) days of the filing of
8 the application, following notice and hearing and after
9 consideration of reasonable alternatives.

10 2. Following receipt of an application filed pursuant to this
11 subsection, the Corporation Commission staff may file a request to
12 assess the specific costs, to be paid by the electric utility and
13 which shall be deemed to be recoverable, for the costs associated
14 with conducting the analysis or investigation of the application
15 including but not limited to, the cost of acquiring expert
16 witnesses, consultants, and analytical services. Such request shall
17 be filed at and heard by the Corporation Commissioners in the docket
18 opened by the electric utility pursuant to this subsection. After
19 notice and hearing the Commission shall decide the request.

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

31 4. The Commission shall promulgate rules to implement the
32 provisions of this subsection. Such rules shall be transmitted to

1 the Legislature on or before April 1, 2006. In promulgating rules
2 to implement the provisions of this subsection, the Commission shall
3 consider, among other things, rules which would:

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

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

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

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