

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1985

By: Laughlin and Rice of the  
Senate

3  
4 and

Watson of the House  
5  
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8 An Act relating to electric utilities; amending  
9 Section 1, Chapter 161, O.S.L. 2005 (17 O.S. Supp.  
2007, Section 286), which relates to recovery for  
10 transmission upgrades and capital expenditures;  
11 making the costs of transmission upgrades for wind  
generation recoverable; specifying certain  
12 conditions; clarifying statutory language; and  
providing an effective date.

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14 AUTHORS: Add the following House Coauthors: McMullen, Blackwell  
and Hickman  
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16 AMENDMENT NO. 1 Strike the title, enacting clause and entire bill  
and insert  
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18 "An Act relating to electric utilities; amending  
19 Section 1, Chapter 161, O.S.L. 2005 (17 O.S. Supp.  
2007, Section 286), which relates to recovery for  
20 transmission upgrades and capital expenditures;  
21 making the costs of transmission upgrades for wind  
generation recoverable; specifying certain  
22 conditions; providing for rebuttal of the recovery  
of costs through rate adjustments; granting the  
23 Corporation Commission authority to make certain  
determination; clarifying statutory language; and  
providing an effective date.  
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1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY Section 1, Chapter 161, O.S.L.  
3 2005 (17 O.S. Supp. 2007, Section 286), is amended to read as  
4 follows:

5 Section 286. A. ~~Effective July 1, 2006, the 1.~~ The portion of  
6 costs incurred by an electric utility, which is subject to rate  
7 regulation by the Corporation Commission, for transmission upgrades  
8 approved by a regional transmission organization to which ~~such~~ the  
9 utility is a member and resulting from an order of a federal  
10 regulatory authority having legal jurisdiction over interstate  
11 regulation of transmission rates, shall be presumed recoverable by  
12 ~~such~~ the utility. The presumption established in this ~~subsection~~  
13 paragraph may be rebutted by evidence that the costs so incurred by  
14 the utility for ~~such~~ the transmission upgrades exceed the scope of  
15 the project authorized by the regional transmission organization or  
16 order issued by ~~such~~ the federal regulatory authority having  
17 jurisdiction over interstate regulation of transmission rates. The  
18 Commission shall transmit rules to implement the requirements of  
19 this subsection to the Legislature on or before April 1, 2006. The  
20 rules may authorize an electric utility to periodically adjust its  
21 rates to recover all or a portion of the costs so incurred by the  
22 utility for ~~such~~ the transmission 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 ~~the utility's~~ a plan by the utility to make capital  
17 expenditures for equipment or facilities necessary to comply with  
18 the Federal Clean Air Act, as amended, and, as the Commission may  
19 deem appropriate, federal, state, local or tribal environmental  
20 requirements which apply to generation facilities. If approved by  
21 the Commission, after notice and hearing, the equipment or  
22 facilities specified in ~~such~~ the approved utility plan are  
23 conclusively presumed used and useful. The utility may elect to  
24 periodically adjust its rates to recover the costs of ~~such~~ the

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

16 C. 1. An electric utility subject to rate regulation by the  
17 Corporation Commission may elect to file an application seeking  
18 approval by the Commission to construct a new electric generating  
19 facility or to purchase an existing electric generation facility  
20 subject to the provisions of this subsection. If, and to the extent  
21 that, the Commission determines there is a need for construction or  
22 purchase of ~~such~~ the electric generating facility, the generating  
23 facility shall be considered used and useful and its costs shall be  
24 subject to cost recovery rules promulgated by the Commission. The

1 Commission shall enter an order on an application filed pursuant to  
2 this subsection within two hundred forty (240) days of the filing of  
3 the application, following notice and hearing and after  
4 consideration of reasonable alternatives.

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

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

1 to this subsection. After notice and hearing, the Commission shall  
2 decide the request.

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

8 a. permit contemporaneous utility recovery from its  
9 customers, the amount necessary to cover the  
10 Corporation Commission staff and Attorney General  
11 assessments as authorized by this subsection,

12 b. establish how the cost of facilities approved pursuant  
13 to this subsection shall be timely reviewed, approved,  
14 and recovered or disapproved, and

15 c. establish the information which an electric utility  
16 must provide when filing an application pursuant to  
17 this subsection.

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

23 SECTION 2. This act shall become effective November 1, 2008."  
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1 Passed the House of Representatives the 24th day of April, 2008.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2008.

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9 Presiding Officer of the Senate