

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2813

6 By: Watson

7 SUBCOMMITTEE RECOMMENDATION

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

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

17 SECTION 1. AMENDATORY Section 1, Chapter 161, O.S.L.
18 2005 (17 O.S. Supp. 2007, Section 286), is amended to read as
19 follows:

20 Section 286. A. ~~Effective July 1, 2006, the 1.~~ The portion of
21 costs incurred by an electric utility, which is subject to rate
22 regulation by the Corporation Commission, for transmission upgrades
23 approved by a regional transmission organization to which ~~such~~ the
24 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

1 ~~such~~ the utility. The presumption established in this subsection
2 may be rebutted by evidence that the costs so incurred by the
3 utility for ~~such~~ the transmission upgrades exceed the scope of the
4 project authorized by the regional transmission organization or
5 order issued by ~~such~~ the federal regulatory authority having
6 jurisdiction over interstate regulation of transmission rates. The
7 Commission shall transmit rules to implement the requirements of
8 this subsection to the Legislature on or before April 1, 2006. The
9 rules may authorize an electric utility to periodically adjust its
10 rates to recover all or a portion of the costs so incurred by the
11 utility for ~~such~~ the transmission upgrades.

12 2. Reasonable costs incurred by an electric utility for
13 transmission upgrades:

14 a. needed to develop wind generation in this state,

15 b. approved by the Southwest Power Pool, and

16 c. placed into service before December 31, 2013,

17 shall be presumed recoverable through a periodic adjustment in the
18 rates of the utility.

19 B. An electric utility subject to rate regulation by the
20 Corporation Commission may file an application seeking Commission
21 authorization of ~~the utility's~~ a plan by the utility to make capital
22 expenditures for equipment or facilities necessary to comply with
23 the Federal Clean Air Act, as amended, and, as the Commission may
24 deem appropriate, federal, state, local or tribal environmental

1 requirements which apply to generation facilities. If approved by
2 the Commission, after notice and hearing, the equipment or
3 facilities specified in ~~such~~ the approved utility plan are
4 conclusively presumed used and useful. The utility may elect to
5 periodically adjust its rates to recover the costs of ~~such~~ the
6 expenditures; ~~provided that the.~~ The utility shall file a request
7 for a review of its rates pursuant to Section 152 of ~~Title 17 of the~~
8 ~~Oklahoma Statutes~~ this title no less than twenty-four (24) months
9 after the utility begins recovering ~~such~~ the costs through a
10 periodic rate adjustment mechanism and no less than twenty-four (24)
11 months after the utility begins recovering ~~such~~ the costs through
12 any subsequent periodic rate adjustment mechanism. Provided
13 further, that ~~such~~ a periodic rate adjustment or adjustments are not
14 intended to prevent a utility from seeking cost recovery of ~~such~~
15 capital expenditures as otherwise may be authorized by the
16 Commission. However, the reasonableness of the costs to be
17 recovered by the utility shall be subject to Commission review and
18 approval. The Commission shall promulgate rules to implement the
19 provisions of this subsection, such rules to be transmitted to the
20 Legislature on or before April 1, 2007.

21 C. 1. An electric utility subject to rate regulation by the
22 Corporation Commission may elect to file an application seeking
23 approval by the Commission to construct a new electric generating
24 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~~ the 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~~ The request
17 shall be filed at and heard by the Corporation Commissioners in the
18 docket opened by the electric utility pursuant to this subsection.
19 After 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

1 Attorney General's duties as provided by law. Those costs may
2 include, but are not limited to, the cost of acquiring expert
3 witnesses, consultants and analytical services. ~~Such~~ The request
4 shall be filed at and heard by the Corporation Commissioners in the
5 docket opened by the electric utility pursuant to this subsection.
6 After notice and hearing, the Commission shall decide the request.

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

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

22 5. The Commission shall also consider rules which may permit an
23 electric utility to begin to recover return on or return of
24 Construction-Work-In-Progress expenses prior to commercial operation

1 of a newly constructed electric generation facility subject to the
2 provisions of this subsection.

3 SECTION 2. This act shall become effective November 1, 2008.

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