

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 2813

By: Watson, McMullen, Hoskin
and Kiesel of the House

6 and

7 Laughlin of the Senate

8
9 COMMITTEE SUBSTITUTE

10 [electric utilities - amending 17 O.S., Section 286 -
11 transmission upgrades - capital expenditures -
12 effective date]

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

14 SECTION 1. AMENDATORY Section 1, Chapter 161, O.S.L.
15 2005 (17 O.S. Supp. 2007, Section 286), is amended to read as
16 follows:

17 Section 286. A. ~~Effective July 1, 2006, the 1.~~ The portion of
18 costs incurred by an electric utility, which is subject to rate
19 regulation by the Corporation Commission, for transmission upgrades
20 approved by a regional transmission organization to which ~~such~~ the
21 utility is a member and resulting from an order of a federal
22 regulatory authority having legal jurisdiction over interstate
23 regulation of transmission rates, shall be presumed recoverable by
24 ~~such~~ the utility. The presumption established in this ~~subsection~~

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

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

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

14 b. approved by the Southwest Power Pool, and

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

16 shall be presumed recoverable through a periodic adjustment in the
17 rates of the utility, provided that the presumption of the recovery

18 of such costs or the recovery of such costs through a periodic

19 adjustment in rates may be rebutted by evidence presented to the

20 Commission. The determination of whether the costs shall be

21 recovered and whether the costs shall be recovered through a

22 periodic adjustment of rates shall be made by the Commission

23 following proper notice and hearing in a cause to be filed by the

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1 electric utility in which it files such information as the
2 Commission may require.

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

1 recovered by the utility shall be subject to Commission review and
2 approval. The Commission shall promulgate rules to implement the
3 provisions of this subsection, such rules to be transmitted to the
4 Legislature on or before April 1, 2007.

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

18 2. Following receipt of an application filed pursuant to this
19 subsection, the Corporation Commission staff may file a request to
20 assess the specific costs, to be paid by the electric utility and
21 which shall be deemed to be recoverable, for the costs associated
22 with conducting the analysis or investigation of the application
23 including, but not limited to, the cost of acquiring expert
24 witnesses, consultants, and analytical services. ~~Such~~ The request

1 shall be filed at and heard by the Corporation Commissioners in the
2 docket opened by the electric utility pursuant to this subsection.
3 After notice and hearing, the Commission shall decide the request.

4 3. Additionally, following receipt of an application filed
5 pursuant to this subsection, the Office of the Attorney General may
6 file a request with the Corporation Commission for the assessment of
7 specific costs, to be paid by the electric utility and which shall
8 be deemed to be recoverable, associated with the performance of the
9 Attorney General's duties as provided by law. Those costs may
10 include, but are 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 4. The Commission shall promulgate rules to implement the
16 provisions of this subsection. ~~Such~~ The rules shall be transmitted
17 to the Legislature on or before April 1, 2006. In promulgating
18 rules to implement the provisions of this subsection, the Commission
19 shall consider, among other things, rules which would:

20 a. permit contemporaneous utility recovery from its
21 customers, the amount necessary to cover the
22 Corporation Commission staff and Attorney General
23 assessments as authorized by this subsection,
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1 b. establish how the cost of facilities approved pursuant
2 to this subsection shall be timely reviewed, approved,
3 and recovered or disapproved, and

4 c. establish the information which an electric utility
5 must provide when filing an application pursuant to
6 this subsection.

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

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

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