

THE HOUSE OF REPRESENTATIVES
Tuesday, April 8, 2008

ENGROSSED
Senate Bill No. 1757

ENGROSSED SENATE BILL NO. 1757 - By: BINGMAN of the Senate and ADKINS of the House.

An Act relating to the Corporation Commission; amending Section 1, Chapter 161, O.S.L. 2005 (17 O.S. Supp. 2007, Section 286), which relates to certain recoverable electric utility rates; modifying list of federal acts requiring utilities compliance; modifying time period for utility to request certain rate review; authorizing utility to seek application for certain long-term contracts for certain rate recovery; and declaring an emergency.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 161, O.S.L. 2005 (17 O.S.
2 Supp. 2007, Section 286), is amended to read as follows:
3 Section 286. A. Effective July 1, 2006, the portion of costs incurred by an electric
4 utility, which is subject to rate regulation by the Corporation Commission, for
5 transmission upgrades approved by a regional transmission organization to which such
6 utility is a member and resulting from an order of a federal regulatory authority having
7 legal jurisdiction over interstate regulation of transmission rates, shall be presumed
8 recoverable by such utility. The presumption established in this subsection may be
9 rebutted by evidence that the costs so incurred by the utility for such transmission
10 upgrades exceed the scope of the project authorized by the regional transmission

1 organization or order issued by such federal regulatory authority having jurisdiction over
2 interstate regulation of transmission rates. The Commission shall transmit rules to
3 implement the requirements of this subsection to the Legislature on or before April 1,
4 2006. The rules may authorize an electric utility to periodically adjust its rates to
5 recover all or a portion of the costs so incurred by the utility for such transmission
6 upgrades.

7 B. An electric utility subject to rate regulation by the Corporation Commission may
8 file an application seeking Commission authorization of the utility's plan to make capital
9 expenditures for equipment or facilities necessary to comply with the ~~Federal~~ federal
10 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive Environmental
11 Response, Compensation, and Liability Act (CERCLA), the Emergency Planning &
12 Community Right-to-Know Act (EPCRA), the Endangered Species Act (ESA), the
13 National Environmental Policy Act (NEPA), the Occupational Safety and Health Act
14 (OSHA), the Oil Pollution Act (OPA), the Pollution Prevention Act (PPA), the Resource
15 Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA), the Toxic
16 Substances Control Act (TSCA), all as amended, and, as the Commission may deem
17 appropriate, federal, state, local or tribal environmental requirements which apply to
18 generation facilities. If approved by the Commission, after notice and hearing, the
19 equipment or facilities specified in such approved utility plan are conclusively presumed
20 used and useful. The utility may elect to periodically adjust its rates to recover the costs
21 of such expenditures; provided that the utility shall file a request for a review of its rates
22 pursuant to Section 152 of Title 17 of the Oklahoma Statutes no less more than twenty-

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1 four (24) months after the utility begins recovering such costs through a periodic rate
2 adjustment mechanism and no ~~less~~ more than twenty-four (24) months after the utility
3 begins recovering such costs through any subsequent periodic rate adjustment
4 mechanism. Provided further, that such periodic rate adjustment or adjustments are not
5 intended to prevent a utility from seeking cost recovery of such capital expenditures as
6 otherwise may be authorized by the Commission. However, the reasonableness of the
7 costs to be recovered by the utility shall be subject to Commission review and approval.
8 The Commission shall promulgate rules to implement the provisions of this subsection,
9 such rules to be transmitted to the Legislature on or before April 1, 2007.

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

21 2. Following receipt of an application filed pursuant to this subsection, the
22 Corporation Commission staff may file a request to assess the specific costs, to be paid by

1 the electric utility and which shall be deemed to be recoverable, for the costs associated
2 with conducting the analysis or investigation of the application including, but not limited
3 to, the cost of acquiring expert witnesses, consultants, and analytical services. Such
4 request shall be filed at and heard by the Corporation Commissioners in the docket
5 opened by the electric utility pursuant to this subsection. After notice and hearing, the
6 Commission shall decide the request.

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

16 4. The Commission shall promulgate rules to implement the provisions of this
17 subsection. Such rules shall be transmitted to the Legislature on or before April 1, 2006.
18 In promulgating 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 customers, the
21 amount necessary to cover the Corporation Commission staff and
22 Attorney General assessments as authorized by this subsection,

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- 1 b. establish how the cost of facilities approved pursuant to this subsection
2 shall be timely reviewed, approved, and recovered or disapproved, and
3 c. establish the information which an electric utility must provide when
4 filing an application pursuant to this subsection.

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TECHNOLOGY, dated
13 04-07-08 - DO PASS.