

THE HOUSE OF REPRESENTATIVES
Tuesday, April 15, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 1985

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1985 - By:
LAUGHLIN AND RICE of the Senate and WATSON AND MCMULLEN of the House.

An Act relating to electric utilities; amending Section 1, Chapter 161, O.S.L. 2005 (17 O.S. Supp. 2007, Section 286), which relates to recovery for transmission upgrades and capital expenditures; making the costs of transmission upgrades for wind generation recoverable; specifying certain conditions; providing for rebuttal of the recovery of costs through rate adjustments; granting the Corporation Commission authority to make certain determination; clarifying statutory language; and providing an effective date.

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 1.~~ The portion of costs incurred by an
4 electric 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 the utility is a member and resulting from an order of a federal regulatory authority
7 having legal jurisdiction over interstate regulation of transmission rates, shall be
8 presumed recoverable by ~~such~~ the utility. The presumption established in this
9 ~~subsection~~ paragraph may be rebutted by evidence that the costs so incurred by the

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

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

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

10 b. approved by the Southwest Power Pool, and

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

12 shall be presumed recoverable through a periodic adjustment in the rates of the utility;
13 provided, that the presumption of the recovery of such costs or the recovery of such costs
14 through a periodic adjustment in rates may be rebutted by evidence presented to the
15 Commission. The determination of whether the costs shall be recovered and whether the
16 costs shall be recovered through a periodic adjustment of rates shall be made by the
17 Commission following proper notice and hearing in a cause to be filed by the electric
18 utility in which it files such information as the Commission may require.

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

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

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

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

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

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

21 4. The Commission shall promulgate rules to implement the provisions of this
22 subsection. ~~Such~~ The rules shall be transmitted to the Legislature on or before April 1,

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TECHNOLOGY, dated
16 04-14-08 - DO PASS, As Amended and Coauthored.