

THE HOUSE OF REPRESENTATIVES  
Thursday, February 21, 2008

Committee Substitute for  
House Bill No. 2813

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2813 - By: 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; 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 may be rebutted by evidence that the costs so incurred by the utility for ~~such~~  
10 the transmission upgrades exceed the scope of the project authorized by the regional  
11 transmission organization or order issued by ~~such~~ the federal regulatory authority

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

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

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

8 b. approved by the Southwest Power Pool, and

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

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

11 B. An electric utility subject to rate regulation by the Corporation Commission may  
12 file an application seeking Commission authorization of ~~the utility's~~ a plan by the utility  
13 to make capital expenditures for equipment or facilities necessary to comply with the  
14 Federal Clean Air Act, as amended, and, as the Commission may deem appropriate,  
15 federal, state, local or tribal environmental requirements which apply to generation  
16 facilities. If approved by the Commission, after notice and hearing, the equipment or  
17 facilities specified in ~~such~~ the approved utility plan are conclusively presumed used and  
18 useful. The utility may elect to periodically adjust its rates to recover the costs of ~~such~~  
19 the expenditures; ~~provided that the~~. The utility shall file a request for a review of its  
20 rates pursuant to Section 152 of ~~Title 17 of the Oklahoma Statutes~~ this title no less than  
21 twenty-four (24) months after the utility begins recovering ~~such~~ the costs through a  
22 periodic rate adjustment mechanism and no less than twenty-four (24) months after the

1 utility begins recovering ~~such~~ the costs through any subsequent periodic rate adjustment  
2 mechanism. Provided further, that ~~such a~~ periodic rate adjustment or adjustments are  
3 not intended to prevent a utility from seeking cost recovery of ~~such~~ capital expenditures  
4 as otherwise may be authorized by the Commission. However, the reasonableness of the  
5 costs to be recovered by the utility shall be subject to Commission review and approval.  
6 The Commission shall promulgate rules to implement the provisions of this subsection,  
7 such rules to be transmitted to the Legislature on or before April 1, 2007.

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

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

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

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

13 4. The Commission shall promulgate rules to implement the provisions of this  
14 subsection. ~~Such~~ The rules shall be transmitted to the Legislature on or before April 1,  
15 2006. In promulgating rules to implement the provisions of this subsection, the  
16 Commission shall consider, among other things, rules which would:

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

