

3 Senate Bill No. 1757

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

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

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

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

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

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

9 B. An electric utility subject to rate regulation by the  
10 Corporation Commission may file an application seeking Commission  
11 authorization of the utility's plan to make capital expenditures for  
12 equipment or facilities necessary to comply with the ~~Federal~~ federal  
13 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive  
14 Environmental Response, Compensation, and Liability Act (CERCLA),  
15 the Emergency Planning & Community Right-to-Know Act (EPCRA), the  
16 Endangered Species Act (ESA), the National Environmental Policy Act  
17 (NEPA), the Occupational Safety and Health Act (OSHA), the Oil  
18 Pollution Act (OPA) the Pollution Prevention Act (PPA), the Resource  
19 Conservation and Recovery Act (RCRA), the Safe Drinking Water Act  
20 (SDWA), the Toxic Substances Control Act (TSCA), all as amended,  
21 and, as the Commission may deem appropriate, federal, state, local  
22 or tribal environmental requirements which apply to generation  
23 facilities. If approved by the Commission, after notice and

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

19 C. 1. An electric utility subject to rate regulation by the  
20 Corporation Commission may elect to file an application seeking  
21 approval by the Commission to construct a new electric generating  
22 facility ~~or~~, to purchase an existing electric generation facility or  
23 enter into a long-term contract for purchased power and capacity

1 and/or energy, subject to the provisions of this subsection. If,  
2 and to the extent that, the Commission determines there is a need  
3 for construction or purchase of such electric generating facility or  
4 long-term purchase power contract, the generating facility or  
5 contract shall be considered used and useful and its costs shall be  
6 subject to cost recovery rules promulgated by the Commission. The  
7 Commission shall enter an order on an application filed pursuant to  
8 this subsection within two hundred forty (240) days of the filing of  
9 the application, following notice and hearing and after  
10 consideration of reasonable alternatives.

11 2. Following receipt of an application filed pursuant to this  
12 subsection, the Corporation Commission staff may file a request to  
13 assess the specific costs, to be paid by the electric utility and  
14 which shall be deemed to be recoverable, for the costs associated  
15 with conducting the analysis or investigation of the application  
16 including, but not limited to, the cost of acquiring expert  
17 witnesses, consultants, and analytical services. Such request shall  
18 be filed at and heard by the Corporation Commissioners in the docket  
19 opened by the electric utility pursuant to this subsection. After  
20 notice and hearing, the Commission shall decide the request.

21 3. Additionally, following receipt of an application filed  
22 pursuant to this subsection, the Office of the Attorney General may  
23 file a request with the Corporation Commission for the assessment of

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

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

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
11 2-21-08 - DO PASS, As Coauthored.