

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1985

By: Laughlin

4  
5  
6 AS INTRODUCED

7 An Act relating to the Corporation Commission;  
8 amending Section 1, Chapter 161, O.S.L. 2005 (17 O.S.  
9 Supp. 2007, Section 286), which relates to rate  
10 adjustments for certain transmission upgrades;  
11 providing for rate adjustments for certain utility  
12 transmission upgrades for wind generation; and  
13 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. Reasonable  
costs incurred by an election utility for transmission upgrades

1 needed to develop wind generation in this state which have been  
2 approved by the Southwest Power Pool shall be presumed recoverable  
3 through a periodic adjustment to such utility's rates. The  
4 presumption established in this subsection may be rebutted by  
5 evidence that the costs so incurred by the utility for such  
6 transmission upgrades exceed the scope of the project authorized by  
7 the regional transmission organization or order issued by such  
8 federal regulatory authority having jurisdiction over interstate  
9 regulation of transmission rates. The Commission shall transmit  
10 rules to implement the requirements of this subsection to the  
11 Legislature on or before April 1, 2006. The rules may authorize an  
12 electric utility to periodically adjust its rates to recover all or  
13 a portion of the costs so incurred by the utility for such  
14 transmission upgrades.

15 B. An electric utility subject to rate regulation by the  
16 Corporation Commission may file an application seeking Commission  
17 authorization of the utility's plan to make capital expenditures for  
18 equipment or facilities necessary to comply with the Federal Clean  
19 Air Act, as amended, and, as the Commission may deem appropriate,  
20 federal, state, local or tribal environmental requirements which  
21 apply to generation facilities. If approved by the Commission,  
22 after notice and hearing, the equipment or facilities specified in  
23 such approved utility plan are conclusively presumed used and  
24 useful. The utility may elect to periodically adjust its rates to

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

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

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

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

15 3. Additionally, following receipt of an application filed  
16 pursuant to this subsection, the Office of the Attorney General may  
17 file a request with the Corporation Commission for the assessment of  
18 specific costs, to be paid by the electric utility and which shall  
19 be deemed to be recoverable, associated with the performance of the  
20 Attorney General's duties as provided by law. Those costs may  
21 include, but are not limited to, the cost of acquiring expert  
22 witnesses, consultants and analytical services. Such request shall  
23 be filed at and heard by the Corporation Commissioners in the docket  
24

1 opened by the electric utility pursuant to this subsection. After  
2 notice and hearing, the Commission shall decide the request.

3 4. The Commission shall promulgate rules to implement the  
4 provisions of this subsection. Such rules shall be transmitted to  
5 the Legislature on or before April 1, 2006. In promulgating rules  
6 to implement the provisions of this subsection, the Commission shall  
7 consider, among other things, rules which would:

8 a. permit contemporaneous utility recovery from its  
9 customers, the amount necessary to cover the  
10 Corporation Commission staff and Attorney General  
11 assessments as authorized by this subsection,

12 b. establish how the cost of facilities approved pursuant  
13 to this subsection shall be timely reviewed, approved,  
14 and recovered or disapproved, and

15 c. establish the information which an electric utility  
16 must provide when filing an application pursuant to  
17 this subsection.

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

23 SECTION 2. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

3

4 51-2-2597 MJM 1/22/2008 6:15:32 PM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24