

SENATE FLOOR VERSION

February 15, 2024

SENATE BILL NO. 1518

By: Rader of the Senate

and

Caldwell (Trey) of the
House

An Act relating to public utility resources; amending
17 O.S. 2021, Section 286, which relates to cost of
transmission upgrades; directing rule promulgation;
updating statutory references; updating statutory
language; and providing an effective date.

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

SECTION 1. AMENDATORY 17 O.S. 2021, Section 286, is
amended to read as follows:

Section 286. A. 1. The portion of costs incurred by an
electric utility, which is subject to rate regulation by the
Corporation Commission, for transmission upgrades approved by a
regional transmission organization to which the utility is a member
and resulting from an order of a federal regulatory authority having
legal jurisdiction over interstate regulation of transmission rates,
shall be presumed recoverable by the utility. The presumption
established in this paragraph may be rebutted by evidence that the
costs so incurred by the utility for the transmission upgrades

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

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

12 a. needed to develop wind generation in this state,
13 b. approved by the Southwest Power Pool, and
14 c. placed into service before December 31, 2013,
15 shall be presumed recoverable through a periodic adjustment in the
16 rates of the utility, provided that the presumption of the recovery
17 of such costs or the recovery of such costs through a periodic
18 adjustment in rates may be rebutted by evidence presented to the
19 Commission. The determination of whether the costs shall be
20 recovered and whether the costs shall be recovered through a
21 periodic adjustment of rates shall be made by the Commission
22 following proper notice and hearing in a cause to be filed by the
23 electric utility in which it files such information as the
24 Commission may require.

1 B. An electric utility subject to rate regulation by the
2 Corporation Commission may file an application seeking Commission
3 authorization of a plan by the utility to make capital expenditures
4 for equipment or facilities necessary to comply with the federal
5 Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive
6 Environmental Response, Compensation, and Liability Act of 1980
7 (CERCLA), the Emergency Planning & and Community Right-to-Know Act
8 of 1986 (EPCRA), the Endangered Species Act of 1973 (ESA), the
9 National Environmental Policy Act of 1969 (NEPA), the Occupational
10 Safety and Health Act of 1970 (OSHA), the Oil Pollution Act of 1990
11 (OPA), the Pollution Prevention Act (PPA), the Resource Conservation
12 and Recovery Act of 1976 (RCRA), the Safe Drinking Water Act (SDWA),
13 the Toxic Substances Control Act (TSCA), all as amended, and, as the
14 Commission may deem appropriate, federal, state, local or tribal
15 environmental requirements which apply to generation facilities. If
16 approved by the Commission, after notice and hearing, the equipment
17 or facilities specified in the approved utility plan are
18 conclusively presumed used and useful. The utility may elect to
19 periodically adjust its rates to recover the costs of the
20 expenditures. The utility shall file a request for a review of its
21 rates pursuant to Section 152 of this title no more than twenty-four
22 (24) months after the utility begins recovering the costs through a
23 periodic rate adjustment mechanism and no more than twenty-four (24)
24 months after the utility begins recovering the costs through any

1 subsequent periodic rate adjustment mechanism. Provided further,
2 that a periodic rate adjustment or adjustments are not intended to
3 prevent a utility from seeking cost recovery of capital expenditures
4 as otherwise may be authorized by the Commission. However, the
5 reasonableness of the costs to be recovered by the utility shall be
6 subject to Commission review and approval. The Commission shall
7 promulgate rules to implement the provisions of this subsection,
8 such rules to be transmitted to the Legislature on or before April
9 1, 2007.

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

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

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

22 4. The Commission shall promulgate rules to implement the
23 provisions of this subsection. The rules shall be transmitted to
24 the Legislature on or before April 1, 2006. In promulgating rules

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

3 a. permit contemporaneous utility recovery from its
4 customers, the amount necessary to cover the
5 Corporation Commission staff and Attorney General
6 assessments as authorized by this subsection,

7 b. establish how the cost of facilities approved pursuant
8 to this subsection shall be timely reviewed, approved,
9 and recovered or disapproved, and

10 c. establish the information which an electric utility
11 must provide when filing an application pursuant to
12 this subsection.

13 5. The Commission shall also consider rules which may permit an
14 electric utility to begin to recover return on or return of
15 ~~Construction-Work-In-Progress~~ construction work-in-progress expenses
16 prior to commercial operation of a newly constructed electric
17 generation facility subject to the provisions of this subsection.

18 6. The Commission shall promulgate rules directing electric
19 utilities to consider the economic impact of projects located in
20 this state when comparing bids under the utility's respective
21 competitive bidding process.

22 SECTION 2. This act shall become effective November 1, 2024.

23 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TELECOMMUNICATIONS
24 February 15, 2024 - DO PASS