

1 ENGROSSED SENATE
2 BILL NO. 998

By: Green and Gollihare of the
Senate

3 and

4 Caldwell (Trey) of the
5 House

6
7 An Act relating to public utilities; amending 17 O.S.
8 2021, Section 286, which relates to cost of
9 transmission upgrades; modifying application process
10 for construction of certain facilities; establishing
11 cost recovery provisions; updating statutory
12 references; updating statutory language; referring
13 deference of certain assets by a public utility;
14 defining term; providing for Corporation Commission
15 prudence review process; establishing rate proceeding
16 procedures for certain utilities; providing
17 exceptions; providing for codification; providing an
18 effective date; and declaring an emergency.

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

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

22 Section 286. A. 1. The portion of costs incurred by an
23 electric utility, which is subject to rate regulation by the
24 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

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

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

- 14 a. needed to develop wind generation in this state,
- 15 b. approved by the Southwest Power Pool, and
- 16 c. placed into service before December 31, 2013,

17 shall be presumed recoverable through a periodic adjustment in the
18 rates of the utility, provided that the presumption of the recovery
19 of such costs or the recovery of such costs through a periodic
20 adjustment in rates may be rebutted by evidence presented to the
21 Commission. The determination of whether the costs shall be
22 recovered and whether the costs shall be recovered through a
23 periodic adjustment of rates shall be made by the Commission
24 following proper notice and hearing in a cause to be filed by the

1 electric utility in which it files such information as the
2 Commission may require.

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

1 through a periodic rate adjustment mechanism and no more than
2 twenty-four (24) months after the utility begins recovering the
3 costs through any subsequent periodic rate adjustment mechanism.
4 Provided further, that a periodic rate adjustment or adjustments are
5 not intended to prevent a utility from seeking cost recovery of
6 capital expenditures as otherwise may be authorized by the
7 Commission. However, the reasonableness of the costs to be
8 recovered by the utility shall be subject to Commission review and
9 approval. The Commission shall promulgate rules to implement the
10 provisions of this subsection, such rules to be transmitted to the
11 Legislature on or before April 1, 2007.

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

1 days of the filing of the application, following notice and hearing
2 and after consideration of reasonable alternatives, unless the
3 electric generation facility utilizes natural gas as its primary
4 fuel source. If the electric generation facility uses natural gas
5 as its primary fuel source, then the Commission shall enter an order
6 on an application filed pursuant to this subsection within one
7 hundred eighty (180) days of the filing of the application,
8 following notice and hearing and after consideration of reasonable
9 alternatives.

10 2. Bids received by the utility through a competitive bidding
11 process within the twelve (12) months following the final bid due
12 date of such competitive bidding process shall be considered
13 substantial evidence to satisfy the consideration of reasonable
14 alternatives.

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

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

12 ~~4.~~ 5. The Commission shall promulgate rules to implement the
13 provisions of this subsection. The rules shall be transmitted to
14 the Legislature on or before April 1, 2006. In promulgating rules
15 to implement the provisions of this subsection, the Commission shall
16 consider, among other things, rules which would:

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

1 c. establish the information which an electric utility
2 ~~must~~ shall provide when filing an application pursuant
3 to this subsection.

4 ~~5- 6.~~ The Commission shall ~~also consider rules which may permit~~
5 an electric utility to begin to recover return on ~~or~~ and return of
6 Construction-Work-In-Progress expenses prior to commercial operation
7 of a newly constructed electric generation facility subject to the
8 provisions of this subsection, provided the newly constructed
9 electric generation facility utilizes natural gas as its primary
10 fuel source. The Commission shall permit a separate rate adjustment
11 mechanism, adjusted periodically, to recover the costs described in
12 this section for new capacity in natural-gas-fired electric
13 generation facilities. The new natural-gas-fired electric
14 generation capacity eligible for those provisions shall also include
15 new natural-gas-fired capacity additions at an existing electric
16 generation facility. If a public utility implements a rate
17 adjustment mechanism pursuant to this section and subsequently
18 terminates the initiative to construct or acquire stake in a natural
19 gas electric generation facility, the public utility shall
20 automatically refund customers any amounts collected through such
21 rate adjustment mechanism plus interest at the one-year United
22 States Treasury Bill rate through the mechanism, over a period not
23 to exceed ninety (90) days from the effective date of the
24 termination of the initiative.

1 7. For any new natural-gas-fired electric generation facility
2 constructed pursuant to this section, an electric utility shall
3 secure a firm contract to transport natural gas to the generating
4 facility. Such contract shall be secured pursuant to a competitive
5 solicitation process conducted in accordance with applicable
6 Commission rules. The cost incurred for the contract shall be
7 presumed recoverable by the electric utility through its applicable
8 fuel adjustment clause. Costs assessed upon the electric utility by
9 the Commission for non-compliance with this section shall not be
10 recoverable from the customers of the electric utility. If the
11 electric utility does not receive a bid for firm transportation as a
12 result of its competitive solicitation, the electric utility shall
13 be considered compliant with the requirements of this section
14 provided that the Commission determines that the competitive
15 solicitation is for a firm contract for transport of natural gas
16 which could be reasonably provided by an available pipeline.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 286A of Title 17, unless there
19 is created a duplication in numbering, reads as follows:

20 A. 1. On and after the effective date of this act, a public
21 utility shall defer to a regulatory asset ninety percent (90%) of
22 all depreciation expenses and return associated with all qualifying
23 electric plants placed in service, provided the public utility has
24 provided notice to the Corporation Commission of the public

1 utility's election to make such deferrals pursuant to this section.
2 Deferral under this section shall begin on the effective date of
3 this act if the public utility notifies the Commission of the
4 election prior to the effective date, or on the date that the
5 utility notifies the Commission of the election if such date is
6 after the effective date of this act.

7 2. For the purposes of this section, "qualifying electric
8 plant" means all incremental electric plants placed in service by a
9 public utility following the utility's last general rate case,
10 excluding transmission facilities or new electric generating units.

11 B. The Commission shall conduct a prudence review of the
12 associated qualifying electric plant resulting in the regulatory
13 asset balances prior to moving such balances into the public
14 utility's rate base. The regulatory asset balances arising under
15 this section shall be adjusted to reflect any prudence disallowances
16 of the associated qualifying electric plant, following notice and
17 hearing, as ordered by the Commission.

18 C. Unless otherwise provided by this section, in each general
19 rate proceeding concluded on or after July 1, 2025, the balance of
20 the regulatory asset as of the end of the test year shall be
21 included in the public utility's rate base without any offset,
22 reduction, or adjustment based upon consideration of any other
23 factor with the regulatory asset balances arising from deferrals

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1 associated with the qualifying electric plant placed in service
2 after the end of the test year.

3 D. Parts of regulatory asset balances created under this
4 section that are not included in rate base shall accrue carrying
5 costs at the public utility's weighted average cost of capital plus
6 applicable federal, state, and local income or excise taxes.
7 Regulatory asset balances arising under this section that are
8 included in rate base shall be recovered in rates through a twenty-
9 year amortization beginning on the date new rates reflecting such
10 amortization take effect.

11 E. Depreciation expenses deferred under this section shall
12 account for any qualifying electric plant placed into service.
13 Return deferred under this section shall be determined using the
14 weighted average cost of capital approved by the Commission in the
15 public utility's last general rate case and applied to the change in
16 regulatory asset balances caused by the qualifying electric plant,
17 plus applicable federal, state, and local income or excise taxes.
18 In determining the return deferred, the public utility shall account
19 for changes in all plant-related accumulated deferred income taxes
20 and changes in accumulated depreciation, excluding retirements.

21 F. This section shall only apply to any public utility that has
22 elected to make the deferrals for which this section provides and
23 filed a notice with the Commission of such election.

24 SECTION 3. This act shall become effective July 1, 2025.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 27th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2025.

Presiding Officer of the House
of Representatives