

1 **SENATE FLOOR VERSION**

2 March 6, 2025

3 SENATE BILL NO. 998

By: Gollihare

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5
6 An Act relating to public utilities; amending 17 O.S.
7 2021, Section 286, which relates to cost of
8 transmission upgrades; referring deference of certain
9 assets by a public utility; defining term; providing
10 for Corporation Commission prudence review process;
11 establishing rate proceeding procedures for certain
12 utilities; providing exceptions; providing for
13 codification; providing an effective date; and
14 declaring an emergency.

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

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

18 Section 286. A. 1. The portion of costs incurred by an
19 electric utility, which is subject to rate regulation by the
20 Corporation Commission, for transmission upgrades approved by a
21 regional transmission organization to which the utility is a member
22 and resulting from an order of a federal regulatory authority having
23 legal jurisdiction over interstate regulation of transmission rates,
24 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 (CERCLA),
7 the Emergency Planning & Community Right-to-Know Act (EPCRA), the
8 Endangered Species Act (ESA), the National Environmental Policy Act
9 (NEPA), the Occupational Safety and Health Act (OSHA), the Oil
10 Pollution Act (OPA), the Pollution Prevention Act (PPA), the
11 Resource Conservation and Recovery Act (RCRA), the Safe Drinking
12 Water Act (SDWA), the Toxic Substances Control Act (TSCA), all as
13 amended, and, as the Commission may deem appropriate, federal,
14 state, local or tribal environmental requirements which apply to
15 generation facilities. If approved by the Commission, after notice
16 and hearing, the equipment or facilities specified in the approved
17 utility plan are conclusively presumed used and useful. The utility
18 may elect to periodically adjust its rates to recover the costs of
19 the expenditures. The utility shall file a request for a review of
20 its rates pursuant to Section 152 of this title no more than twenty-
21 four (24) months after the utility begins recovering the costs
22 through a periodic rate adjustment mechanism and no more than
23 twenty-four (24) months after the utility begins recovering the
24 costs through any subsequent periodic rate adjustment mechanism.

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

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

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

6 2. Regardless of the generation source, bids received by the
7 utility through a competitive bidding process within the twelve (12)
8 months following the final bid due date of such competitive bidding
9 process shall be considered substantial evidence to satisfy the
10 consideration of reasonable alternatives.

11 3. 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. The 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.~~ 4. 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
24 specific costs, to be paid by the electric utility and which shall

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

8 ~~4.~~ 5. The Commission shall promulgate rules to implement the
9 provisions of this subsection. The rules shall be transmitted to
10 the Legislature on or before April 1, 2006. In promulgating rules
11 to implement the provisions of this subsection, the Commission shall
12 consider, among other things, rules which would:

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

23 ~~5.~~ 6. The Commission shall ~~also consider rules which may permit~~
24 an electric utility to begin to recover return on ~~er~~ and return of

1 Construction-Work-In-Progress expenses prior to commercial operation
2 of a newly constructed electric generation facility subject to the
3 provisions of this subsection, provided the newly constructed
4 electric generation facility utilizes natural gas as its primary
5 fuel source. The Commission shall permit a separate rate adjustment
6 mechanism, adjusted periodically, to recover the costs described in
7 this paragraph. If a public utility implements a rate adjustment
8 mechanism pursuant to this paragraph and subsequently terminates the
9 initiative to construct or acquire stake in the electric generation
10 facility, the Commission shall have the authority, following notice
11 and hearing, to order the public utility to refund customers any
12 amounts collected through such rate adjustment mechanism. In
13 ordering any such refund, the Commission shall give consideration as
14 to the circumstances resulting in the termination of the
15 construction or acquisition.

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

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

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

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

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

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

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

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

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

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

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health or 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 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
4 March 6, 2025 - DO PASS
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