

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 998

By: Gollihare

6 AS INTRODUCED

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

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

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

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

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

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

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

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

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

1 twenty-four (24) months after the utility begins recovering the  
2 costs through any subsequent periodic rate adjustment mechanism.  
3 Provided further, that a periodic rate adjustment or adjustments are  
4 not intended to prevent a utility from seeking cost recovery of  
5 capital expenditures as otherwise may be authorized by the  
6 Commission. However, the reasonableness of the costs to be  
7 recovered by the utility shall be subject to Commission review and  
8 approval. The Commission shall promulgate rules to implement the  
9 provisions of this subsection, such rules to be transmitted to the  
10 Legislature on or before April 1, 2007.

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

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

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

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

23       3. 4. Additionally, following receipt of an application filed  
24 pursuant to this subsection, the Office of the Attorney General may

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

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

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

1       5. 6. The Commission shall ~~also consider rules which may permit~~  
2 an electric utility to begin to recover return on ~~or~~ and 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, provided the newly constructed  
6 electric generation facility utilizes natural gas as its primary  
7 fuel source. The Commission shall permit a separate rate adjustment  
8 mechanism, adjusted periodically, to recover the costs described in  
9 this paragraph. If a public utility implements a rate adjustment  
10 mechanism pursuant to this paragraph and subsequently terminates the  
11 initiative to construct or acquire stake in the electric generation  
12 facility, the Commission shall have the authority, following notice  
13 and hearing, to order the public utility to refund customers any  
14 amounts collected through such rate adjustment mechanism. In  
15 ordering any such refund, the Commission shall give consideration as  
16 to the circumstances resulting in the termination of the  
17 construction or acquisition.

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

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

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

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

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

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

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

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