

## **SENATE FLOOR VERSION**

March 6, 2025

SENATE BILL NO. 998

By: Gollihare

An Act relating to public utilities; amending 17 O.S. 2021, Section 286, which relates to cost of transmission upgrades; referring deference of certain assets by a public utility; defining term; providing 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.

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 (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 |       §. 6. The Commission shall ~~also consider rules which may~~ permit  
24 | an electric utility to begin to recover return on ~~or~~ 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

March 6, 2025 - DO PASS

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