

1 **SENATE FLOOR VERSION**

2 February 15, 2024

3 SENATE BILL NO. 1518

By: Rader of the Senate

4 and

5 Caldwell (Trey) of the  
6 House

7  
8 An Act relating to public utility resources; amending  
9 17 O.S. 2021, Section 286, which relates to cost of  
10 transmission upgrades; directing rule promulgation;  
11 updating statutory references; updating statutory  
12 language; and providing an effective date.

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

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

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