

HOUSE BILL No. 2225

AN ACT concerning utilities; relating to electric utilities; including cost recovery of transmission-related costs for transmission facilities constructed as a result of a directive from the regional transmission organization; authorizing cost recovery for transmission facilities constructed as a result of internal or local planning under certain circumstances; requiring the commission to adjust the authorized return on equity for such internal or local transmission projects recovered through a transmission delivery charge; requiring public utilities to evaluate the regional rate competitiveness and impact to economic development in rate proceedings; amending K.S.A. 66-117 and 66-1237 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 66-117 is hereby amended to read as follows: 66-117. (a) Unless the state corporation commission otherwise orders, no common carrier or public utility over which the commission has control shall make effective any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of such public utility or common carrier except by filing the same with the commission at least 30 days prior to the proposed effective date. The commission, for good cause, may allow such changed rate, joint rate, toll, charge or classification or schedule of charges, or rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier to become effective on less than 30 days' notice. If the commission allows a change to become effective on less than 30 days' notice, the effective date of the allowed change shall be the date established in the commission order approving such change, or the date of the order if no effective date is otherwise established. Any such proposed change shall be shown by filing with the state corporation commission a schedule showing the changes, and such changes shall be plainly indicated by proper reference marks in amendments or supplements to existing tariffs, schedules or classifications, or in new issues thereof.

(b) Whenever any common carrier or public utility governed by the provisions of this act files with the state corporation commission a schedule showing the changes desired to be made and put in force by such public utility or common carrier, the commission either upon complaint or upon its own motion, may give notice and hold a hearing upon such proposed changes. Pending such hearing, the commission may suspend the operation of such schedule and defer the effective date of such change in rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier by delivering to such public utility or common carrier a statement in writing of its reasons for such suspension.

(c) The commission shall not delay the effective date of the proposed change in rate, joint rate, toll, charge or classification or schedule of charges, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, more than 240 days beyond the date the public utility or common carrier filed its application requesting the proposed change. If the commission does not suspend the proposed schedule within 30 days of the date the same is filed by the public utility or common carrier, such proposed schedule shall be deemed approved by the commission and shall take effect on the proposed effective date. If the commission has not issued a final order on the proposed change in any rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, within 240 days after the carrier or utility files its application requesting the proposed change, then the schedule shall be deemed approved by the commission and the proposed change shall be effective immediately, except that:

(1) For purposes of the foregoing provisions regarding the period of time within which the commission shall act on an application, any amendment to an application for a proposed change in any rate, which increases the amount sought by the public utility or common carrier or substantially alters the facts used as a basis for such requested change

of rate, shall, at the option of the commission, be deemed a new application and the 240-day period shall begin again from the date of the filing of the amendment;

(2) if hearings are in process before the commission on a proposed change requested by the public utility or common carrier on the last day of such 240-day period, such period shall be extended to the end of such hearings plus 20 days to allow the commission to prepare and issue its final order; and;

(3) nothing in this subsection shall preclude the public utility or common carrier and the commission from agreeing to a waiver or an extension of the 240-day period.

(d) Except as provided in subsection (c), no change shall be made in any rate, toll, charge, classification or schedule of charges or joint rates, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission. Within 30 days after such changes have been authorized by the state corporation commission or become effective as provided in subsection (c), copies of all tariffs, schedules and classifications, and all rules and regulations, except those determined to be confidential under rules and regulations adopted by the commission, shall be filed in every station, office or depot of every such public utility and every common carrier in this state, for public inspection.

(e) Upon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected ~~(1)~~ to produce energy from a renewable resource other than nuclear for the use of its customers, ~~(2)~~ to cause the conservation of energy used by its customers; or ~~(3)~~ to bring about the more efficient use of energy by its customers, the commission may allow a return on such investment equal to an increment of from ~~1/2%~~ 0.5% to 2% plus an amount equal to the rate of return fixed for the utility's other investment in property found by the commission to be used or required to be used in its services to the public. The commission may also allow such higher rate of return on investments by a public utility in experimental projects, such as load management devices, which it determines after public hearing to be reasonably designed to cause more efficient utilization of energy and in energy conservation programs or measures which it determines after public hearing provides a reduction in energy usage by its customers in a cost-effective manner.

(f) Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility's bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes. For purposes of this section, such amounts charged to expense on the books and records of the utility may be estimated once the total property tax payment is known. If found necessary by the commission or the utility, the utility shall file tariffs which reflect the change as a revision to the surcharge. Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce any existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the commission shall approve such tariffs within 30 days of the filing. Any over or under collection of the actual ad valorem tax increase charged to expense on the books of the utility shall be either credited or collected through the surcharge in subsequent periods. The establishment of a surcharge under this section shall not be deemed to be a rate increase for purposes of this act. The net effect of any surcharges established under this section shall be included by the commission in the establishment of base rates in any subsequent rate case filed by the utility.

(g) Except as to the time limits prescribed in subsection (c),

proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(h) In any general rate proceeding of an electric public utility serving more than 20,000 customers conducted pursuant to this section, the electric public utility shall evaluate and include in its application for a rate change an assessment of the following: (1) The regional rate competitiveness of the electric public utility's current and proposed rates; and (2) the impact of the electric public utility's current and proposed rates upon economic development within the state.

Sec. 2. K.S.A. 66-1237 is hereby amended to read as follows: 66-1237. (a) Any electric utility subject to the regulation of the state corporation commission pursuant to K.S.A. 66-101, and amendments thereto, may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of transmission-related costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge included in customers' bills. The electric utility's initial transmission delivery charge resulting from this section may be determined by the commission either from transmission-related costs approved in the electric utility's most recent retail rate filing or in an order establishing rates in response to a general retail rate application by an electric utility.

(b) (1) If an electric utility elects to recover its transmission-related costs through a transmission delivery charge, such electric utility shall have the right to implement a transmission delivery charge through an application to the commission.

~~(1)~~(2) If an electric utility proposes to establish its initial transmission delivery charge other than in connection with an application to the commission that proposes a general retail rate change the commission shall, effective the same date as the effective date of the initial transmission delivery charge, unbundle the electric utility's retail rates in such a manner that the sum of the revenue to be recovered from the initial transmission delivery charge and the non-transmission-related retail rates will be consistent with the revenue that would be recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge.

~~(2)~~(3) If an electric utility proposes to establish its initial transmission delivery charge in connection with an application to the commission for a general retail rate change, the commission shall, in its order in such rate proceeding, determine the electric utility's transmission-related costs related to its service to Kansas retail customers and determine an initial transmission delivery charge sufficient to permit the electric utility to recover from its Kansas retail customers such utility's transmission-related costs incurred to provide service to such customers.

(c) *Except as provided in subsection (d), all transmission-related costs incurred by an electric utility and resulting from any order of a regulatory authority having legal jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. The commission may also order such a change if the utility fails to do so. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds.*

(d) (1) A for-profit, investor-owned electric utility serving more than 20,000 customers in Kansas that elects to recover such utility's transmission-related costs through a transmission delivery charge

pursuant to this section may include, as a component of such charge, the following:

(A) All transmission-related costs associated with transmission facilities constructed as a result of a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency; and

(B) all fees and costs imposed on the electric utility in connection with the operation of wholesale power markets by a regional transmission organization, independent system operator or other entity that is regulated by the federal energy regulatory commission, other federal agency or any successor federal agency.

(2) A for-profit, investor-owned electric utility serving more than 20,000 customers in Kansas may recover, as a component of a transmission delivery charge, transmission-related costs associated with transmission facilities constructed as a result of such utility's internal or local planning processes absent a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency, subject to such utility's compliance with subsections (e) and (f).

(e) To recover the costs described in subsection (d)(2) as a component of a transmission delivery charge and to facilitate commissioner and commission-authorized intervenor review, a utility shall make a compliance filing with the commission prior to the time period provided pursuant to subsection (f) for the commission to adjust the return on equity relating to such costs. A compliance filing shall include all the compliance filing details required by this subsection. Such utility shall continue to make annual compliance filings to the commission. Each compliance filing shall provide the following:

(1) For each non-blanket work order transmission project over \$15,000,000, or a different amount deemed necessary by the commission staff in consultation with the filing utility, an itemization of projected transmission spending for the succeeding calendar year and the second succeeding calendar year. The commission may expect a utility to provide more extensive details for transmission projects in the succeeding calendar year than for the second succeeding calendar year; but the utility shall provide as many details as reasonably possible for transmission projects in the second succeeding calendar year;

(2) for each transmission project:

(A) A project identifier or name;

(B) the anticipated in-service date;

(C) the projected cost;

(D) the specific location within the utility's system;

(E) whether the project is classified as a new build, rebuild, upgrade or any other appropriate classification;

(F) a description providing the purpose for the project and the anticipated reliability benefits;

(G) a description of the original vintage of the replaced facilities if the project is classified as a rebuild or upgrade; and

(H) the load additions or economic development benefits accommodated by the project, if any; and

(3) a proposed date and time for:

(A) Representatives of the public utility to conduct a technical conference for the purpose of discussing the details of the compliance filing with commission staff, the citizens utility ratepayer board and other commission-authorized intervenors. Such technical conference shall be held not later than 90 days after the utility filed the compliance filing; and

(B) the commission to hold a public workshop in which representatives of the public utility shall present the details associated with the transmission projects that are anticipated in the succeeding calendar year. The public workshop shall allow for questions and

comments from the commission, commission staff and other commission-authorized intervenors. The public workshop shall be held not later than 120 days after the utility filed the compliance filing.

(f) Beginning January 1, 2024, and prior to April 1, 2024, for any utility electing to recover the costs described in subsection (d)(2), the commission shall adjust the return on equity used to determine the revenue requirement of such costs from the federal energy regulatory commission's jurisdictional return on equity to the state corporation commission's authorized return on equity last used to set the utility's base rates in effect at the time of filing the transmission delivery charge update. If a return on equity was not explicitly established during the utility's last general rate case, the commission shall determine an appropriate return on equity from the record of the last general rate case to establish the revenue requirement for such costs. The use of the state corporation commission's authorized return on equity shall not impact any project that was constructed as a result of a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency. In any transmission delivery charge update filing, a utility electing to recover the costs described in subsection (d)(2) shall utilize the state corporation commission's authorized return on equity that was used to set the utility's base rates in effect at the time of the update filing or that was stipulated and approved by the commission for use in the transmission delivery charge if a return on equity was not explicitly set during the last general rate case, to determine the utility's transmission delivery charge update.

Sec. 3. K.S.A. 66-117 and 66-1237 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE

President of the Senate.

Secretary of the Senate.

APPROVED

Governor.