

## 2023 Kansas Statutes

**66-1,242. Items prohibited from consideration by commission in any matter.** (a) The commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority, consider the:

(1) Securitized utility tariff bonds issued pursuant to a financing order to be the debt of the public utility other than for federal and state income tax purposes;

(2) securitized utility tariff charges paid under the financing order to be the revenue of the public utility for any purpose; or

(3) securitized utility tariff costs or financing costs specified in the financing order to be the costs of the public utility.

(b) The commission shall not determine any action taken by a public utility that is consistent with the financing order to be unjust or unreasonable, and K.S.A. 66-1a01, and amendments thereto, shall not apply to the issuance of securitized utility tariff bonds.

(c) No public utility shall be required to file an application for a financing order under this section or otherwise utilize this section. The commission shall not order or otherwise directly or indirectly require a public utility to use securitized utility tariff bonds to recover securitized utility tariff costs or to finance any project, addition, plant, facility, extension, capital improvement, equipment or any other expenditure. After the issuance of a financing order, the public utility shall retain sole discretion regarding the decision to cause the securitized utility tariff bonds to be issued, including the right to defer or postpone such sale, assignment, transfer or issuance. Nothing shall prevent the public utility from abandoning the issuance of securitized utility tariff bonds under the financing order by filing with the commission a statement of abandonment and the reasons therefor.

(d) Securitized utility tariff bonds authorized under this act shall not be subject to K.S.A. 66-125, and amendments thereto.

(e) The commission shall not refuse to allow a public utility to recover securitized utility tariff costs in an otherwise permissible fashion, or refuse or condition authorization or approval of the issuance and sale by a public utility of securities or the assumption by the public utility of liabilities or obligations, solely because of the potential availability of securitized utility tariff bond financing.

(f) The commission shall not, directly or indirectly, utilize or consider the debt reflected by the securitized utility tariff bonds in establishing the public utility's capital structure used to determine any regulatory matter, including, but not limited to, the public utility's revenue requirement used to set its rates.

(g) The commission shall not, directly or indirectly, consider the existence of securitized utility tariff bonds or the potential use of securitized utility tariff bond financing in determining the public utility's authorized rate of return used to determine the public utility's revenue requirement used to set its rates.

(h) The commission shall not approve an application for a financing order associated with an asset retirement or abandonment if the application does not establish that the securitization of the specified retired or abandoned generating facility provides net quantifiable rate benefits to customers as required under this act.

**History:** L. 2021, ch. 29, § 3; April 22.