

**SENATE BILL No. 339**

By Committee on Utilities

1-29

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1 AN ACT concerning electric utilities; relating to electric rates; state  
2 corporation commission; approval of certain contract rates for  
3 electricity; cost recovery from rate classes; amending K.S.A. 66-101b  
4 and 66-109 and repealing the existing sections.

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

7 New Section 1. (a) Notwithstanding the provisions of K.S.A. 66-101b  
8 and 66-109, and amendments thereto, the commission shall have the  
9 authority to approve a contract rate, outside a general rate proceeding, that  
10 is not based on the electric public utility's cost of service for a facility, if  
11 the commission:

12 (1) (A) Determines that the facility would not continue operations, or  
13 resume operations that had previously been suspended, in the state of  
14 Kansas without such contract rate; and

15 (B) determines that the contract rate is in the interest of the state of  
16 Kansas based on:

17 (i) The interests of the customers of the electric public utility serving  
18 the facility;

19 (ii) an evaluation of the incremental cost to serve the facility; and

20 (iii) the interests of the citizens of the state generally in promoting  
21 economic development, retaining the tax base, keeping employment  
22 opportunities in the state and promoting such other benefits to the state as  
23 the commission may determine are created by approval of the contract  
24 rate;

25 (2) allocates the reduced revenues from the contract rate, as  
26 determined by a comparison of the contract rate to the revenues that would  
27 have been generated at the retail rate the facility would have paid without  
28 such contract rate, to the electric public utility's other non-contract  
29 customers through a uniform percentage adjustment. Such reduced  
30 revenues shall be applied in each general rate proceeding of the electric  
31 public utility serving the facility to all components of the base rates of all  
32 customer classes, except the rates for service provided to customers under  
33 any contract rate approved by the commission pursuant to subsection (a) or  
34 (b) or the commission's general rate making authority; and

35 (3) (A) approves a tracking mechanism to track reductions in revenue  
36 experienced by the electric public utility serving the facility as a result of

1 the contract rate from the date the contract rate becomes effective; and

2 (B) such reductions in revenue shall be deferred to a regulatory asset  
3 and shall accrue interest at the weighted average cost of capital used by the  
4 commission to set the electric public utility's rates in its most recently  
5 concluded general rate proceeding with the balance of such regulatory  
6 asset to be included in the rate base and revenue requirement of the electric  
7 public utility in each of its general rate proceedings through an  
8 amortization of the balance over a reasonable period until fully collected  
9 from the electric public utility's non-contract rate customers.

10 (b) Notwithstanding the provisions of K.S.A. 66-101b and 66-109,  
11 and amendments thereto, the commission shall have the authority to  
12 approve a contract rate, outside a general rate proceeding, that is based on  
13 the electric public utility's incremental cost of service for a facility, if the  
14 commission:

15 (1) (A) Determines that the facility would not commence or expand  
16 operations in the state of Kansas without such contract rate;

17 (B) determines that the contract rate recovers the incremental cost of  
18 providing service to the facility; and

19 (C) determines that the contract rate is in the interest of the state of  
20 Kansas based on:

21 (i) The interests of the customers of the electric public utility serving  
22 the facility;

23 (ii) the incremental cost of serving the facility; and

24 (iii) the interests of the citizens of the state generally in promoting  
25 economic development, retaining the tax base, keeping employment  
26 opportunities in the state and promoting such other benefits to the state as  
27 the commission may determine are created by approval of the contract  
28 rate; and

29 (2) uses the reduction in revenues that result from any contract rate  
30 approved by the commission pursuant to this subsection that will be in  
31 effect during the effective period of the rate for the purposes of  
32 determining the electric utility's revenue requirement in each general rate  
33 proceeding concluded after the effective date of this section.

34 (c) The contract rates authorized by this section may be approved by  
35 the commission for a term of up to 10 years, and an electric public utility  
36 may apply for reapproval of such contract rates for a facility that the  
37 commission has granted approval under this section.

38 (d) The provisions of this section shall not affect any contract rates  
39 approved by the commission prior to, and in effect on, the effective date of  
40 this section. This section shall not:

41 (1) Affect or diminish the authority of the commission to approve just  
42 and reasonable contract rates filed pursuant to the commission's general  
43 ratemaking authority according to custom and practice of the commission

1 in place prior to the effective date of this section; or

2 (2) establish standards for approval of such contract rates.

3 (e) If the commission approves a contract rate pursuant to this  
4 section, the commission shall not have the authority to modify or eliminate  
5 any such rate during the specified term, subject to the conditions  
6 established by this section.

7 (f) As used in this section:

8 (1) "Electric public utility" means the same as prescribed in K.S.A.  
9 66-101a, and amendments thereto; and

10 (2) "facility" means an existing or proposed building or buildings of  
11 an existing or potential electric customer with existing or expected load  
12 equal to, or in excess of, a monthly demand of 50 megawatts, and such  
13 load may represent the aggregate demand of multiple meter accounts.

14 New Sec. 2. (a) Notwithstanding the provisions of K.S.A. 66-101b or  
15 66-109, and amendments thereto, the commission shall authorize an  
16 electric public utility to implement economic development rate schedules  
17 that provide discounts from otherwise applicable standard rates for electric  
18 service for new or expanded facilities of industrial or commercial  
19 customers that are not in the business of selling or providing goods or  
20 services directly to the general public. To be eligible for such discounts,  
21 such customer shall:

22 (1) Have incentives from one or more local, regional, state or federal  
23 economic development agencies to locate such new or expanded facilities  
24 in the electric public utility's certified service territory;

25 (2) qualify for service under the electric public utility's non-  
26 residential and non-lighting rate schedules for such new or expanded  
27 facility; and

28 (3) not receive the discount together with service provided by the  
29 electric public utility pursuant to any other special contract agreements.

30 (b) The discount authorized by this section shall only be applicable to  
31 new facilities or expanded facilities that have:

32 (1) A peak demand that is reasonably projected to be at least 200  
33 kilowatts within two years of the date the customer first receives service  
34 under the discounted rate and is not the result of shifting existing demand  
35 from other facilities of the customer in the electric public utility's certified  
36 service territory and:

37 (A) Has an annual load factor that is reasonably projected to equal or  
38 exceed the customer's annual system load factor within two years of the  
39 date the customer first receives service under the discounted rate; or

40 (B) otherwise warrants a discounted rate based on any of the  
41 following factors:

42 (i) The number of new permanent full-time jobs created or the  
43 percentage increase in existing permanent full-time jobs created;

- 1 (ii) the level of capital investment;
- 2 (iii) additional off-peak usage;
- 3 (iv) curtailable or interruptible load;
- 4 (v) new industry or technology; or
- 5 (vi) competition with existing industrial customers; or
- 6 (2) a peak demand that is reasonably projected to be at least 300
- 7 kilowatts within two years of the date the customer first receives service
- 8 under the discounted rate and is not the result of shifting existing demand
- 9 from other facilities of the customer in the electric public utility's certified
- 10 service territory and:
  - 11 (A) An annual load that is reasonably projected to be at least 55% of
  - 12 the electric public utility's annual system load factor within two years of
  - 13 the date the customer first receives service under the discounted rate; and
  - 14 (B) the facility shall, once first achieved, maintain the peak demand
  - 15 and load factor for the remaining duration of the discounted rate.
- 16 (c) The discount authorized by this section shall be determined by
- 17 reducing otherwise applicable charges associated with the rate schedule
- 18 applicable to the new or expanded existing facility by a fixed percentage
- 19 for each year of service under the discount for a period of up to five years.
- 20 The average of the annual discount percentages shall not:
  - 21 (1) Exceed 20% for discounts that qualify pursuant to subsection (b)
  - 22 (1), but may be between 5% to 30% in any year; and
  - 23 (2) exceed 40% for discounts that qualify pursuant to subsection (b)
  - 24 (2), but may be between 20% to 50% in any year.
- 25 (d) In each general rate proceeding concluded after the effective date
- 26 of this section, the commission shall allocate the reduced level of revenues
- 27 arising from the discounted rates provided for in this section through the
- 28 application of a uniform percentage adjustment to the revenue requirement
- 29 responsibility for all customer classes of the electric public utility
- 30 providing such discounted rate, including the classes with customers that
- 31 qualify for discounts under this act, except for rates for service provided to
- 32 customers under contract rates either approved by the commission
- 33 pursuant to section 1, and amendments thereto, or the commission's
- 34 general ratemaking authority.
- 35 (e) (1) The commission shall approve a tracking mechanism to track
- 36 reductions in revenue experienced by the electric public utility serving the
- 37 facility as a result of the discount rate from the date the discount rate
- 38 becomes effective; and
- 39 (2) such reductions in revenue shall be deferred to a regulatory asset
- 40 and shall accrue interest at the weighted average cost of capital used by the
- 41 commission to set the electric public utility's rates in its most recently
- 42 concluded general rate proceeding with the balance of such regulatory
- 43 asset to be included in the rate base and revenue requirement of the electric

1 public utility in each of the utility's general rate proceedings through an  
2 amortization of the balance over a reasonable period until fully collected  
3 from the utility's non-contract rate customers.

4 (f) The provisions of this section shall not apply to rates for service  
5 provided to customers under contract rates approved by the commission  
6 pursuant to section 1, and amendments thereto, or the commission's  
7 general ratemaking authority according to custom and practice of the  
8 commission in place prior to the effective date of this section.

9 (g) For the purposes of this section:

10 (1) "Electric public utility" means the same as prescribed in K.S.A.  
11 66-101a, and amendments thereto;

12 (2) "expanded facility" means a separately metered facility of the  
13 customer, unless the utility determines that the additional costs of separate  
14 metering of such facility would exceed the associated benefits or that it  
15 would be difficult or impractical to install or read the meter, that has not  
16 received service in the electric utility's certified service territory in the  
17 previous 12 months; and

18 (3) "new facility" means a building of the customer that has not  
19 received electric service in the electric utility's certified service territory in  
20 the previous 12 months.

21 Sec. 3. K.S.A. 66-101b is hereby amended to read as follows: 66-  
22 101b. *Except as provided in sections 1 and 2, and amendments thereto,*  
23 every electric public utility governed by this act shall be required to  
24 furnish reasonably efficient and sufficient service and facilities for the use  
25 of any and all products or services rendered, furnished, supplied or  
26 produced by such electric public utility, to establish just and reasonable  
27 rates, charges and exactions and to make just and reasonable rules,  
28 classifications and regulations. Every unjust or unreasonably  
29 discriminatory or unduly preferential rule, regulation, classification, rate,  
30 charge or exaction is prohibited and is unlawful and void. The commission  
31 shall have the power, after notice and hearing in accordance with the  
32 provisions of the Kansas administrative procedure act, to require all  
33 electric public utilities governed by this act to establish and maintain just  
34 and reasonable rates when the same are reasonably necessary in order to  
35 maintain reasonably sufficient and efficient service from such electric  
36 public utilities.

37 Sec. 4. K.S.A. 66-109 is hereby amended to read as follows: 66-109.  
38 *Except as provided in sections 1 and 2, and amendments thereto,* no  
39 common carrier or public utility governed by the provisions of this act  
40 shall, knowingly or willfully, charge, demand, collect or receive a greater  
41 or less compensation for the same class of service performed by ~~it~~ *such*  
42 *common carrier or public utility* within the state, or for any service in  
43 connection therewith, than is specified in the printed schedules or

1 classifications, including schedules of joint rates; or demand, collect or  
2 receive any rate, joint rate, toll, fare or charge not specified in such  
3 schedule or classification:~~Provided, except~~ that rates different from those  
4 specified in the printed schedule or classification of rates may be charged  
5 by any public utility, street or interurban railway, by agreement with the  
6 customer, in cases of charity, emergency, festivity or public entertainment:  
7 ~~Provided, That, and~~ any utility governed by the provisions of this act may  
8 grant to the officers, employees and agents of such utilities free or reduced  
9 rates or service upon like terms and in the same manner as is now provided  
10 by law relating to common carriers.

11 Sec. 5. K.S.A. 66-101b and 66-109 are hereby repealed.

12 Sec. 6. This act shall take effect and be in force from and after its  
13 publication in the statute book.