

SENATE BILL No. 360

By Committee on Utilities

1-26

AN ACT relating to public utilities; concerning the costs of new facilities; amending K.S.A. 66-117 and repealing the existing section.

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

1 suspension.

2 (c) The commission shall not delay the effective date of the proposed
3 change in rate, joint rate, toll, charge or classification or schedule of
4 charges, or in any rule or regulation or practice pertaining to the service
5 or rates of any such public utility or common carrier, more than 240 days
6 beyond the date the public utility or common carrier filed its application
7 requesting the proposed change. If the commission does not suspend the
8 proposed schedule within 30 days of the date the same is filed by the
9 public utility or common carrier, such proposed schedule shall be deemed
10 approved by the commission and shall take effect on the proposed effec-
11 tive date. If the commission has not issued a final order on the proposed
12 change in any rate, joint rate, toll, charge or classification or schedule of
13 charges, or any rule or regulation or practice pertaining to the service or
14 rates of any such public utility or common carrier, within 240 days after
15 the carrier or utility files its application requesting the proposed change,
16 then the schedule shall be deemed approved by the commission and the
17 proposed change shall be effective immediately, except that (1) for pur-
18 poses of the foregoing provisions regarding the period of time within
19 which the commission shall act on an application, any amendment to an
20 application for a proposed change in any rate, which increases the amount
21 sought by the public utility or common carrier or substantially alters the
22 facts used as a basis for such requested change of rate, shall, at the option
23 of the commission, be deemed a new application and the 240-day period
24 shall begin again from the date of the filing of the amendment, (2) if
25 hearings are in process before the commission on a proposed change
26 requested by the public utility or common carrier on the last day of such
27 240-day period, such period shall be extended to the end of such hearings
28 plus 20 days to allow the commission to prepare and issue its final order,
29 and, (3) nothing in this subsection shall preclude the public utility or
30 common carrier and the commission from agreeing to a waiver or an
31 extension of the 240-day period.

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

43 (e) Upon a showing by a public utility before the state corporation

1 commission at a public hearing and a finding by the commission that such
2 utility has invested in projects or systems that can be reasonably expected
3 (1) to produce energy from a renewable resource other than nuclear for
4 the use of its customers, (2) to cause the conservation of energy used by
5 its customers, or (3) to bring about the more efficient use of energy by
6 its customers, the commission may allow a return on such investment
7 equal to an increment of from $\frac{1}{2}\%$ to 2% plus an amount equal to the
8 rate of return fixed for the utility's other investment in property found
9 by the commission to be used or required to be used in its services to the
10 public. The commission may also allow such higher rate of return on
11 investments by a public utility in experimental projects, such as load man-
12 agement devices, which it determines after public hearing to be reason-
13 ably designed to cause more efficient utilization of energy and in energy
14 conservation programs or measures which it determines after public hear-
15 ing provides a reduction in energy usage by its customers in a cost-effec-
16 tive manner.

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

40 (g) (1) *As used in this subsection:*

41 (A) "Natural gas public utility" means a public utility which provides
42 natural gas utility services, and includes the natural gas portion of a public
43 utility which provides both natural gas and electric utility services;

1 (B) “electric public utility” means an electric public utility which has
2 not more than 200,000 customers, and shall include the electric portion
3 of a public utility which provides both electric and natural gas utility
4 services, if the electric portion of such public utility serves not more than
5 200,000 customers.

6 (2) An electric public utility and a natural gas public utility may file
7 with the commission a tariff or rate schedule that provides for the utility
8 to collect a surcharge from its customers to recover the cost of a new
9 investment placed in service for utility services. The amount a utility is
10 allowed to recover under the tariff or rate schedule each calendar year is
11 based on the difference between the value of the invested capital for the
12 preceding calendar year and the value of the invested capital for the cal-
13 endar year preceding that calendar year. The value of the invested capital
14 is equal to the original cost of the investment at the time the investment
15 was first dedicated to public use minus the accumulated depreciation re-
16 lated to that investment.

17 (3) A utility may recover under the tariff or rate schedule only the
18 return on investment, depreciation expense, revenue related taxes and
19 incremental state and federal income taxes related to the difference in the
20 value of the invested capital, as determined in paragraph (2). The return
21 on investment, depreciation and incremental state and federal income
22 taxes factors used in the computation must be the same as the factors
23 reflected in the utility’s latest effective rates approved by the commission.

24 (4) A utility that implements a tariff or rate schedule under this sub-
25 section shall file with the commission an annual report describing the
26 investment projects completed and placed in service during the preceding
27 calendar year and the investments retired or abandoned during the pre-
28 ceding calendar year. In addition, the utility shall file with the commission
29 an annual earnings monitoring report, demonstrating the utility’s earn-
30 ings during the preceding calendar year and the investments retired or
31 abandoned during the preceding calendar year. If a tariff or rate schedule
32 implemented under this section does not affect all of the utility’s classes
33 of customers, the utility shall adjust the earnings monitoring report to
34 reflect the allocations among customer classes used in the latest effective
35 rates approved by the commission.

36 (5) If the utility is earning a return on invested capital, as demon-
37 strated by the report filed under paragraph (4), of more than 75 basis
38 points above the return established in the latest effective rates approved
39 by the commission, the utility shall file a statement with that report stating
40 the reasons why the rates are not unreasonable or in violation of law.

41 (6) If a utility that implements a tariff or rate schedule under this
42 section does not file a rate case with the commission before the fifth an-
43 niversary of the date on which the tariff or rate schedule takes effect, the

1 utility shall file a rate case with the commission not later than 180 days
2 after that anniversary in relation to any rates subject to the tariff or rate
3 schedule.

4 (7) An investment subject to recovery under this subsection by an
5 electric public utility shall be limited to transmission and distribution
6 facilities.

7 ~~(g)~~ (h) Except as to the time limits prescribed in subsection (c), pro-
8 ceedings under this section shall be conducted in accordance with the
9 provisions of the Kansas administrative procedure act.

10 Sec. 2. K.S.A. 66-117 is hereby repealed.

11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.

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