

## HOUSE BILL No. 2792

By Committee on Energy and Utilities

2-7

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9 AN ACT concerning electric public utilities; amending K.S.A. 66-128g  
10 and 66-1223 and repealing the existing sections.

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

13 Section 1. K.S.A. 66-128g is hereby amended to read as follows: 66-  
14 128g. (a) The factors which shall be considered by the commission in  
15 making the determination of “prudence” or lack thereof in determining  
16 the reasonable value of electric generating property, as contemplated by  
17 this act shall include without limitation the following:

18 (1) A comparison of the existing rates of the utility with rates that  
19 would result if the entire cost of the facility were included in the rate  
20 base for that facility;

21 (2) a comparison of the rates of any other utility in the state which  
22 has no ownership interest in the facility under consideration with the rates  
23 that would result if the entire cost of the facility were included in the rate  
24 base;

25 (3) a comparison of the final cost of the facility under consideration  
26 to the final cost of other facilities constructed within a reasonable time  
27 before or after construction of the facility under consideration;

28 (4) a comparison of the original cost estimates made by the owners  
29 of the facility under consideration with the final cost of such facility;

30 (5) the ability of the owners of the facility under consideration to sell  
31 on the competitive wholesale or other market electrical power generated  
32 by such facility if the rates for such power were determined by inclusion  
33 of the entire cost of the facility in the rate base;

34 (6) a comparison of any overruns in the construction cost of the fa-  
35 cility under consideration with any cost overruns of any other electric  
36 generating facility constructed within a reasonable time before or after  
37 construction of the facility under consideration;

38 (7) whether the utility having an ownership interest in the facility  
39 being considered has provided a method to ensure that the cost of any  
40 decommissioning, any waste disposal or any cost of clean up of any inci-  
41 dent in construction or operation of such facility is to be paid by the utility;

42 (8) inappropriate or poor management decisions in construction or  
43 operation of the facility being considered;

- 1 (9) whether inclusion of all or any part of the cost of construction of  
2 the facility under consideration, and the resulting rates of the utility there-  
3 from, would have an adverse economic impact upon the people of Kansas;
- 4 (10) whether the utility acted in the general public interest in man-  
5 agement decisions in the acquisition, construction or operation of the  
6 facility;
- 7 (11) whether the utility accepted risks in the construction of the fa-  
8 cility which were inappropriate to the general public interest to Kansas;
- 9 (12) any other fact, factor or relationship which may indicate pru-  
10 dence or lack thereof as that term is commonly used.
- 11 (b) The portion of the cost of a plant or facility which exceeds 200%  
12 of the “original cost estimate” thereof shall be presumed to have been  
13 incurred due to a lack of prudence. The commission may include any or  
14 all of the portion of cost in excess of 200% of the “original cost estimate”  
15 if the commission finds by a preponderance of the evidence that such  
16 costs were prudently incurred. As used in this act “original cost estimate”  
17 means:
- 18 (1) For property of an electric utility which has been constructed  
19 without obtaining an advance permit under K.S.A. 66-1,159 et seq., and  
20 amendments thereto, the “definitive estimate”; and
- 21 (2) for property of an electric utility which has been constructed after  
22 obtaining an advance permit under K.S.A. 66-1,159 et seq., and amend-  
23 ments thereto, the cost estimate made by the utility in the process of  
24 obtaining the advance permit.
- 25 (c) *In approving rates for new electric generation, the commission*  
26 *shall consider life cycle costs, efficiency of plant operations, costs reason-*  
27 *ably anticipated from federal and state mandates, lowest cost over the life*  
28 *of the facility and other factors relating to environmental and energy*  
29 *reliability matters as determined by the commission.*
- 30 Sec. 2. K.S.A. 66-1223 is hereby amended to read as follows: 66-  
31 1223. (a) The consumer counsel may do the following:
- 32 ~~(a)~~ (1) Represent residential and small commercial ratepayers before  
33 the state corporation commission;
- 34 ~~(b)~~ (2) function as an official intervenor in cases filed with the state  
35 corporation commission, including rate increase requests;
- 36 ~~(c)~~ (3) initiate actions before the state corporation commission;
- 37 ~~(d)~~ (4) represent residential and commercial ratepayers who file for-  
38 mal utility complaints with the state corporation commission;
- 39 ~~(e)~~ (5) intervene in formal complaint cases which would affect rate-  
40 payers; and
- 41 ~~(f)~~ (6) make application for a rehearing or seek judicial review of any  
42 order or decision of the state corporation commission.
- 43 (b) *In carrying out their duties, the citizens’ utility ratepayer board*

1 *and the consumer counsel shall determine approvals and rates for new*  
2 *electric generation which use life cycle costs, efficiency of plant operations,*  
3 *costs reasonably anticipated from federal and state mandates, lowest cost*  
4 *over the life of the facility and other factors relating to environmental and*  
5 *energy reliability matters as determined by the board.*

6     Sec. 3. K.S.A. 66-128g and 66-1223 are hereby repealed.

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