Proposed Amendment SB 69
3/7/2019
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Office of Revisor of Statutes

SENATE BILL No. 69

By Committee on Federal and State Affairs

AN ACT concerning the state corporation commission; requiring a study of electric rates; relating to just and reasonable electric rates; electric rate changes; report to the legislature; amending K.S.A. 66-101b and 66-117b and repealing the existing sections.

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

New Section 1. The legislative coordinating council shall authorize a study of the retail rates of Kansas electric public utilities including electric public utilities as defined in K.S.A. 66-101n, and amendments thereto, electric cooperative public utilities exempt from state corporation commission jurisdiction pursuant to K.S.A. 66-104d, and amendments thereto, and the 40 largest municipally owned or operated electric utilities by customer count. To conduct the study, the legislative coordinating council shall select one or more independent organizations that have experience with evaluating electric utilities and include input from residential, commercial and industrial customers and advanced energy stakeholders. The study shall be completed and delivered to the Senate committee on utilities and the House of representatives committee on energy, utilities and telecommunications by December 31, 2019. The costs of the study shall be paid by the state corporation commission from an assessment of expenses pursuant to K.S.A. 66-1502, and amendments thereto, upon the utilities that are subject to the jurisdiction of the state corporation commission. To facilitate this study, every Kansas electric public utility subject to this study shall provide any relevant information requested. Any disputes regarding the provision of information, including the establishment of reasonable protections for the treatment of confidential information, shall be decided by the state corporation commission. The study shall address:

(a) the extent and impact of rate changes in Kansas including:

(1) the extent to which retail electric rates of Kansas electric public utilities have increased or decreased since 2005;

(2) the amount of increase or decrease for all separate rates, fees or charges, including, but not limited to, energy charges, demand charges, service fees, maintenance charges, taxes and surcharges, transmission charges, and any other fees or charges authorized by the legislative coordinating council;

(b) the legislative coordinating council; state corporation commission; state corporation commission in two parts.

Such utilities shall include:

The study of the issues identified in subsections (c) (1) and (2) shall be completed and the study of the issues identified in subsection (c) (3) shall be completed by July 1, 2020. Both studies shall be made available by the commission on its website.

Any organization selected by the legislative coordinating council may request data from any electric utility identified in subsection (a) and must allow at least 14 days for the utility to respond. Prior to making a request for information of any electric utility, any organization selected by the council shall enter into a confidentiality agreement with the electric utility to assure nondisclosure of confidential business information.

(B) The state corporation commission shall assist any organization hired by the legislative coordinating council by sharing subject matter knowledge regarding Kansas electric utilities and assisting with the procurement of any necessary information requested by such organization. Such requests shall be subject to the provisions of the Kansas open records act, the judicial review act, the Kansas administrative procedures act and any other law or regulations applicable to the state corporation commission.
surcharges, cost adjustments for each fuel, debt financing charges, energy-efficiency surcharges and renewable energy surcharges, by rate class, for each Kansas electric-public utility since 2005;
(3) the return on investment experienced by shareholders of Kansas investor-owned electric-public utilities since 2005 and how such returns compare to comparable vertically integrated investor-owned electric utilities in other states;
(4) the primary causes for rate increases by Kansas electric public utilities that have occurred since 2005;
(5) how utilities in states in the surrounding region have complied with environmental regulations affecting their utility assets and whether Kansas electric-public utilities have employed similar strategies;
(6) the investments made by Kansas electric-public utilities in electric transmission infrastructure since 2005 and the retail rate impacts of such investments;
(7) the extent to which transmission investments by Kansas electric-public utilities have impacted retail rates, including any incremental regional transmission costs incurred by Kansas ratepayers for transmission investments in other states, and whether such costs have been fully offset by financial benefits such as improved access to low-cost renewable energy and wholesale energy markets;
(8) whether rate increases or the associated rising costs of Kansas investor-owned electric-public utilities impact the retail electric rates of Kansas electric cooperatives and municipal utilities;
(9) whether Kansas electric-public utilities are employing efficient and low-cost capital structures;
(10) whether Kansas retail electric ratepayers have incurred costs associated with the curtailment of non-dispatchable generation resources and the amount of annual costs that have been incurred to pay non-dispatchable wind and solar generation to not generate and deliver electricity, including a determination of whether the commission has been consistently and appropriately informed of such costs prior to approval of incremental additions of non-dispatchable generation in Kansas and an assessment of how such costs have been classified and communicated to retail electric ratepayers; and
(11) whether retail electric rates in Kansas are competitive with the surrounding region and if such rates are a material barrier to economic development in Kansas;
(b) the effectiveness of current Kansas ratemaking practices, including whether:
(1) current ratemaking adequately attracts needed utility capital investments and adequately discourages unnecessary capital investments in Kansas;
(2) current ratemaking appropriately balance utility profits with the
public interest objectives of competitive electricity pricing and service
quality;
(2) Kansas electric public utilities are currently recovering from
Kansas retail electric ratepayers the full or partial cost, including a return
on investment, of any investments that are no longer fully used or required
to be used in service to the public within the state of Kansas, including, but
not limited to, generation capacity investments;
(4) investments that Kansas electric public utilities have made in
electric transmission and renewable generation resources have contributed,
and to what extent, to the obsolescence of all the other generation facility
investments of such utilities;
(5) any employee compensation structures, including incentive
compensation and pension benefits, of Kansas electric public utilities
conflict with customer interests;
(6) allowing Kansas investor-owned electric public utilities to recover
costs through frequently updated surcharges and riders without a
traditional ratemaking process has contributed to rising electricity prices
and whether such ratemaking treatments impact the rate of return provided
to utility shareholders, the financial risk associated with utility investments,
and management incentives to mitigate costs;
(7) allowing Kansas electric cooperatives and municipal utilities to
set rates and recover costs without a traditional ratemaking process has
contributed to rising electricity prices; and
(8) electricity providers in surrounding states are subject to similar
state laws, regulations and oversight to such requirements in Kansas;
(9) options available to the state corporation commission and Kansas
legislature to begin reducing Kansas retail electricity prices to regionally
competitive levels, including reviewing whether:
(A) comprehensive wholesale and retail unnecessarily are in the public interest
the current ratemaking processes for
including revenue decoupling and renewable energy incentives,
securitized ratepayer-backed bonds could benefit utilities and
ratepayers by reducing investment risk, facilitating the recovery of
certain stranded costs from under-utilized or otherwise obsolete
generating and other facilities and lowering retail electric rates, and
assisting in the transition to new technologies, including a review of
whether securitized bonds could be effectively utilized by Kansas
utilities;
(F) how Kansas sales tax, property taxes, assessment rates and other
fees and taxes on utilities compare to other states in the region and
impact the competitiveness of utility rates;
(G) Kansas electric utilities and the state corporation commission
may reduce costs impacted by decisions of the southwest power
pool by advocating for certain positions through the southwest
power pool's stakeholder and regional state committee processes,
including an identification of current and future issues most likely to
impact Kansas retail electric rates;
commission to proactively stop continued rate increases and reduce retail electric rates; and

(2) legislative enactments could materially address retail electric rate escalation in Kansas; and

(3) other consequential energy issues materially affecting Kansas electricity rates, including:

(A) whether any costs incurred by Kansas electric public utilities to build and operate electric vehicle charging stations, including any necessary upgrades to distribution infrastructure, are recovered from ratepayers not using electric vehicle charging services;

(B) how rates for electric vehicle charging services should be designed to ensure such rates are just and reasonable and not subsidized by other utility customers;

(C) the potential effects deregulating electric vehicle charging services in Kansas, including whether deregulation would ensure that electric vehicle charging services are not subsidized by public utility ratepayers not using electric vehicle charging services;

(D) whether Kansas consumers could benefit from improved access to advanced energy solutions;

(E) the extent to which transmission and distribution investments by Kansas electric public utilities have impacted retail rates, including any incremental regional transmission costs incurred by Kansas ratepayers for transmission investments in other states, and whether such costs have been fully offset by financial benefits such as improved access to low cost renewable energy and wholesale energy markets;

(F) the extent of costs incurred by Kansas ratepayers for transmission investments in Kansas used to export energy out of Kansas;

(G) whether rate increases or the associated rising costs of Kansas investor-owned electric public utilities impact the retail electric rates of Kansas electric cooperatives and municipal utilities;

(H) whether retail electric rates in Kansas are a material barrier to economic development in Kansas;

(I) the impact of contract rates with commercial and industrial customers and economic development rates on other customer classes, including whether expanded utilization of such approaches could benefit all customers over time;

(J)
have issued any public statements about plans for future material investment that have not yet been submitted to the commission for review.

Sec. 2. K.S.A. 66-101b is hereby amended to read as follows: 66-101b. (a) Every electric public utility governed by this act shall be required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such electric public utility, to establish just and reasonable rates, charges and exactions and to make just and reasonable rules, classifications and regulations. Every unjust or unreasonable discriminatory or unduly preferential rule, regulation, classification, rate, charge or exaction is prohibited and is unlawful and void. The commission shall have the power, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, to require all electric public utilities governed by this act to establish and maintain just and reasonable rates when the same are reasonably necessary in order to maintain reasonably efficient and sufficient service from such electric public utilities.

(b) In determining just and reasonable rates, the commission shall evaluate the competitiveness of any proposed electric rate with those of comparable public utilities in surrounding states. Every order approving an increase in the base rates of an electric or natural gas public utility shall include findings of fact regarding the impact of such rate increase on the Kansas economy.

Sec. 3. K.S.A. 66-117b is hereby amended to read as follows: 66-117b. The state corporation commission shall report to the legislature in accordance with this section on or before February 1 each year in regard to any increased 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 a public utility or common carrier approved by the state corporation commission during the preceding fiscal year and an assessment of the regional competitiveness of electric and natural gas rates, with such assessment to compare the rates in Kansas with Missouri, Nebraska, Oklahoma, Colorado, Arkansas, Iowa, Texas and any additional regional state that the commission deems appropriate. For each approved rate change that resulted in a rate increase that exceeds the consumer price index, the commission shall report the circumstances that led to the approval of such rate increase. Such report shall contain statistical and narrative information as the state corporation commission deems appropriate. Such report need not include any information regarding any public utility or common carrier that had less than $10,000,000 annual operating revenues in the preceding calendar year. The report to the legislature under this section shall be made by the state corporation commission either (a) by publishing such report on the Internet.
and by notifying providing the legislature that the website address where
the report is available and providing, as part of such notice, the uniform
resource locator (URL) at which such report is available, or (3) by
submitting copies of such report on CD ROM or other electronically-
readable media to the legislature.
Sec. 4. K.S.A. 66-101b and 66-117b are hereby repealed.
Sec. 5. This act shall take effect and be in force from and after its
publication in the statute book.