

HOUSE BILL No. 2527

By Committee on Energy, Utilities and Telecommunications

Requested by Laura Lutz, on behalf of Evergy

1-18

1 AN ACT concerning public utilities; relating to the state corporation
2 commission; authorizing cost recovery mechanisms for certain rate
3 base additions; requiring the commission to evaluate the capital
4 structure of certain public utilities without regard for entities affiliated
5 with such utility; authorizing certain public utilities to elect a specific
6 return on equity in rate proceedings; increasing the peak demand
7 threshold and discount term for economic development electric rates
8 for large facilities; removing requirements for tracking and deferral to a
9 regulatory asset of revenue reductions caused by economic
10 development rates; authorizing a rate adjustment mechanism for the
11 construction of new gas-fired electric generating facilities; amending
12 K.S.A. 2023 Supp. 66-101j and 66-1239 and repealing the existing
13 sections.
14

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

16 New Section 1. (a) As used in this section:

17 (1) "Commission" means the state corporation commission.

18 (2) "Public utility" means the same as defined in K.S.A. 66-104, and
19 amendments thereto.

20 (3) "Qualifying electric plant" means all rate base additions by an
21 electric public utility.

"Qualifying electric plant" does not include transmission facilities or new
electric generating units.

22 (4) "Rate base cutoff date" means the date rate base additions are
23 accounted for in a general rate proceeding. In the absence of a commission
24 order that specifies the rate base cutoff date, "rate base cutoff date" means
25 the date as reflected in any jointly proposed procedural schedule submitted
26 by the parties in the applicable general rate proceeding, or the date that is
27 otherwise agreed to by such parties.

or that was approved to be used for regulatory accounting purposes

28 (5) "Weighted average cost of capital" means the return on rate base
29 used to determine the revenue requirement ~~in the public utility's most~~
30 ~~recently completed~~ general rate proceeding ~~except that in the absence of~~
31 ~~any commission determination made on or after July 1, 2021, and prior to~~
32 ~~July 1, 2024, to establish the return on rate base for such public utility, the~~
33 ~~weighted average cost of capital shall be determined using the public~~
34 ~~utility's actual capital structure as of December 31, 2023, excluding short-~~
35 ~~term debt, the public utility's actual cost of long-term debt and preferred~~

ordered return on rate base in a

1 ~~stock as of December 31, 2023, and a cost of common equity of 9.5%.~~

2 (b) Notwithstanding any other provision of law except K.S.A. 66-
3 1239(b)(5), and amendments thereto, commencing on July 1, 2024, a
4 public utility shall defer to a regulatory asset ~~100%~~ of all depreciation
5 expense and return associated with all qualifying electric plants recorded
6 to plant-in-service on the utility's books if the public utility has provided
7 notice to the commission of the public utility's election to make such
8 deferrals pursuant to subsection (f). Except as provided in subsection (c),
9 in each general rate proceeding concluded after August 28, 2018, the
10 balance of the regulatory asset as of the rate base cutoff date shall be
11 included in the public utility's rate base without any offset, reduction or
12 adjustment based upon consideration of any other factor with the
13 regulatory asset balance arising from deferrals associated with qualifying
14 electric plants placed in service after the rate base cutoff date to be
15 included in rate base in the next general rate proceeding.

90%

(1). Such deferral shall begin on July 1, 2024, if the public utility has notified the commission of the public utility's election to make such deferral by such date or shall begin on the date that such election is made if such election is made after July 1, 2024.

and (f)(2)

16 (c) The regulatory asset balances arising under this section shall be
17 adjusted to reflect any prudence disallowances ordered by the commission.
18 This section shall not be construed to affect existing law with respect to
19 the burdens of production and persuasion in general rate proceedings for
20 rate base additions.

21 (d) Parts of regulatory asset balances created under this section that
22 are not included in rate base shall include carrying costs at the public
23 utility's weighted average cost of capital, plus applicable federal, state and
24 local income or excise taxes. Regulatory asset balances arising under this
25 section that are included in rate base shall be recovered in rates through a
26 20-year amortization beginning on the date new rates reflecting such
27 amortization take effect.

28 (e) (1) Depreciation expense deferred under this section shall account
29 for all qualifying electric plants placed into service less retirements of the
30 plant replaced by such qualifying electric plant.

plant

31 (2) Return deferred under this section shall be determined using the
32 weighted average cost of capital applied to the change in plant-related rate
33 base caused by the qualifying electric plant, plus applicable federal, state
34 and local income or excise taxes. In determining the return deferred, the
35 public utility shall account for changes in all plant-related accumulated
36 deferred income taxes and changes in accumulated depreciation, excluding
37 retirements.

(2)

(1)

38 (f) This section shall only apply to any public utility that has elected
39 to make the deferrals for which this section provides and filed a notice
40 with the commission of such election. A public utility that makes such
41 election shall be authorized to make the deferrals authorized by this
42 section.

until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to make the deferrals authorized by this section until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and may condition the commission's determination on any factors that are relevant to the deferrals authorized pursuant to this section. If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from making such deferrals after December 31, 2030, and shall not otherwise affect or terminate any deferral that is authorized to be made pursuant to this section or any regulatory or ratemaking treatment of the regulatory assets arising from such deferrals.
(g) The provisions of this section shall not be construed to restrict or limit the authority of the commission to authorize a public utility to use deferral accounting treatment for any rate base addition, such as a new electric generating unit, that is not considered a qualifying electric plant pursuant to this section.

43 New Sec. 2. (a) As used in this section:

1 (1) "Commission" means the state corporation commission.
 2 (2) ~~"Large public utility" means a public utility as defined in K.S.A.
 3 66-104, and amendments thereto, that serves not less than 20,000 retail
 4 customers in Kansas on July 1, 2024.
 5 (b) ~~In any general rate proceeding filed pursuant to K.S.A. 66-117,
 6 and amendments thereto, the commission shall evaluate any large public
 7 utility on a stand-alone basis and, for purposes of establishing the revenue
 8 requirement, utilize such public utility's test year capital structure, without
 9 regard to the capital structure or investments of any other entities with
 10 which such public utility may be affiliated, unless the commission finds
 11 based on evidence in the record that the large public utility's parent
 12 company does not hold an investment-grade credit rating from at least one
 13 nationally recognized credit rating agency. The capital structure shall
 14 include the relative proportions of common equity, long-term debt and
 15 preferred stock consistent with the public utility's test year.
 16 (c) (1) ~~In any general rate proceeding filed pursuant to K.S.A. 66-117,
 17 and amendments thereto, a large public utility may elect to base its return
 18 on equity on the fully-litigated case 12-month average from the most
 19 recent report issued in the regulatory research associates regulatory focus
 20 publication, or its successor publication, for the applicable utility type. In
 21 the case of large public utilities that are also electric public utilities, fully-
 22 litigated observations from cases for electric utilities in restructured
 23 jurisdictions or special rider or non-base rate cases in other jurisdictions
 24 shall be excluded from the average. If the large public utility elects to use
 25 such return on equity, such election shall be conclusive and binding on the
 26 commission for purposes of determining the revenue requirement and,
 27 except as provided in paragraph (2), no other evidence of return on equity
 28 shall be admitted.
 29 (2) ~~The commission may establish pursuant to a commission order,
 30 operational metrics for large public utilities which, if achieved, may result
 31 in an adjustment of up to 25 basis points above or below the regulatory
 32 research associates regulatory focus publication, or its successor
 33 publication, to the fully-litigated case average return on equity determined
 34 pursuant to paragraph (1), where dictated by customer service, operations,
 35 changing economic or market conditions or other relevant factors.
 36 (d) ~~The commission shall consider all admissible evidence on return
 37 on equity and select a reasonable return on equity for a large public utility
 38 that does not elect the return on equity treatment in subsection (c).
 39 Sec. 3. K.S.A. 2023 Supp. 66-101j is hereby amended to read as
 40 follows: 66-101j. (a) Notwithstanding the provisions of K.S.A. 66-101b or
 41 66-109, and amendments thereto, the commission shall authorize an
 42 electric public utility to implement economic development rate schedules
 43 that provide discounts from otherwise applicable standard rates for electric~~~~~~~~~~

"Public utility" means the same as defined in K.S.A. 66-104, and amendments thereto.
 (3) "Qualifying regulatory asset" means any regulatory asset balance arising pursuant to section 1, and amendments thereto, from the rate base cutoff date in the public utility's prior general rate proceeding to the rate base cutoff date in the current general rate proceeding in which the revenue requirement impact cap is applied.
 (4) "Rate base cutoff date" means the date rate base additions are accounted for in a general rate proceeding. In the absence of a commission order that specifies the rate base cutoff date, "rate base cutoff date" means the date as reflected in any jointly proposed procedural schedule submitted by the parties in the applicable general rate proceeding or the date that is otherwise agreed to by the parties.
 (5) "Revenue requirement impact cap" means the product of:
 (A) 1/12 of 1.5% multiplied by the number of months that have elapsed from the effective date of new base rates in an electric public utility's most recently completed general rate proceeding to the effective date of new base rates in the general rate proceeding in which the cap is applied; and
 (B) the retail revenue requirement used to set base rates in the electric public utility's most recently completed general rate proceeding concluded prior to the general rate proceeding in which the cap is applied.
 (b) The provisions of this section apply to any public utility that has elected to make the deferrals authorized pursuant to section 1, and amendments thereto, until the public utility's authority to make such deferrals expires pursuant to section 1, and amendments thereto.
 (c) Any part of a public utility's retail revenue requirement used to set the public utility's base rates in any general rate proceeding of the public utility that is concluded on or after July 1, 2024, and that consists of revenue requirement arising from inclusion in rate base of the qualifying regulatory asset balance shall not exceed the revenue requirement impact cap. If inclusion in rate base of the full balance of the qualifying regulatory asset balance would cause the public utility to exceed the revenue requirement impact cap, any part of the qualifying regulatory asset balance that exceeds the revenue requirement impact cap shall not be included in rate base and the qualifying regulatory asset balance shall be reduced accordingly as a penalty.

1 service for new or expanded facilities of industrial or commercial
2 customers that are not in the business of selling or providing goods or
3 services directly to the general public. To be eligible for such discounts,
4 such customer shall:

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

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

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

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

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

20 (A) Has an annual load factor that is reasonably projected to equal or
21 exceed the electric public utility's annual system load factor within two
22 years of the date the customer first receives service under the discounted
23 rate; or

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

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

28 (ii) the level of capital investment;

29 (iii) additional off-peak usage;

30 (iv) curtailable or interruptible load;

31 (v) new industry or technology; or

32 (vi) competition with existing industrial customers; or

33 (2) ~~a peak demand that is reasonably projected to be at least 300~~
34 ~~kilowatts~~ 25 megawatts within two years of the date the customer first
35 receives service under the discounted rate and is not the result of shifting
36 existing demand from other facilities of the customer in the electric public
37 utility's certified service territory and:

38 (A) An annual load factor that is reasonably projected to be at least
39 55% within two years of the date the customer first receives service under
40 the discounted rate; and

41 (B) the facility shall, once first achieved, maintain the peak demand
42 and load factor for the remaining duration of the discounted rate.

43 (c) The discount authorized by this section shall be determined by

a peak demand that is reasonably projected to be at least 300 kilowatts within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:
(A) An annual load factor that is reasonably projected to be at least 55% within two years of the date the customer first receives service under the discounted rate; and
(B) the facility shall, once first achieved, maintain the peak demand and load factor for the remaining duration of the discounted rate; or
(3)

1 reducing otherwise applicable charges associated with the rate schedule
2 applicable to the new or expanded existing facility by a fixed percentage
3 for each year of service under the discount for a period of up to:

or (b)(2)

4 (1) Five years to facilities that qualify pursuant to subsection (b)(1);
5 and

(b)(3)

6 (2) 10 years to facilities that qualify pursuant to subsection ~~(b)(2)~~.

7 (d) (1) For discounts to facilities that qualify pursuant to subsection
8 (b)(1), the average of the annual discount percentages shall not:

For discounts to facilities that qualify pursuant to subsection (b)(2),
the average of the annual discount percentages shall not exceed
40%, except that such discounts may be between 20% and 50% in
any year of such five-year period.

9 ~~(1) exceed 20% for discounts that qualify pursuant to subsection (b)~~
10 ~~(1), but, except that such discounts may be between 5% to 30% in any~~
11 ~~year; and of such five-year period.~~

(3)

12 ~~(2) For discounts to facilities that qualify pursuant to subsection (b)~~
13 ~~(2), the average of the annual discount percentages shall not exceed:~~

(b)(3)

14 (A) For the first five years of the discount period, 40% for discounts
15 that qualify pursuant to subsection (b)(2), but, except that such discounts
16 may be between 20% to 50% in any year of such five-year period; and

17 (B) for the final five years of the discount period, 20%, except that
18 such discounts may be between 10% and 30% in any year of such five-
19 year period.

20 ~~(d)(e) In each general rate proceeding concluded after the effective~~
21 ~~date of this section, the commission shall allocate the reduced level of~~
22 ~~revenues arising from the discounted rates provided for in this section~~
23 ~~through the application of a uniform percentage adjustment to the revenue~~
24 ~~requirement responsibility for all customer classes of the electric public~~
25 ~~utility providing such discounted rate, including the classes with customers~~
26 ~~that qualify for discounts under this section, except for rates for service~~
27 ~~provided to customers under contract rates either approved by the~~
28 ~~commission pursuant to K.S.A. 2023 Supp. 66-101i, and amendments~~
29 ~~thereto, or the commission's general ratemaking authority.~~

July 1, 2024, the difference in revenues generated by applying the discounted
rates authorized pursuant to this section and the revenues that would have
been generated without such discounts shall not be imputed into the electric
public utility's revenue requirement

30 (e) (1) The commission shall approve a tracking mechanism to track
31 reductions in revenue experienced by the electric public utility serving the
32 facility as a result of the discount rate from the date the discount rate
33 becomes effective; and

34 (2) such reductions in revenue shall be deferred to a regulatory asset
35 and shall accrue interest at the weighted average cost of capital used by the
36 commission to set the electric public utility's rates in its most recently
37 concluded general rate proceeding with the balance of such regulatory
38 asset to be included in the rate base and revenue requirement of the electric
39 public utility in each of the utility's general rate proceedings through an
40 amortization of the balance over a reasonable period until fully collected
41 from the utility's non-contract rate customers.

42 (f) The provisions of this section shall not apply to rates for service
43 provided to customers under contract rates approved by the commission

1 pursuant to K.S.A. 2023 Supp. 66-101i, and amendments thereto, or the
2 commission's general ratemaking authority according to custom and
3 practice of the commission in place prior to the effective date of this
4 section.

5 (g) Starting in January 2023, the commission shall biennially provide
6 a status report to the legislature about any discounts from tariffed rates
7 authorized pursuant to this section. Such report shall include the:

- 8 (1) Number of entities with such discounts;
- 9 (2) number of entities with increased load;
- 10 (3) number of entities with decreased load;
- 11 (4) aggregate load and change in aggregate load on an annual basis;
- 12 (5) total subsidy and the subsidy for each individual contract;
- 13 (6) annual and cumulative rate impact on non-contract rate
14 customers; and

15 (7) estimated economic development impact of entities with
16 discounted rates that occurred as a result of such discounts through an
17 evaluation of the annual: (A) Total employment for such entities; (B)
18 change in employment for such entities; and (C) tax revenue generated by
19 such entities.

20 (h) For the purposes of this section:

21 (1) "Electric public utility" means the same as ~~prescribed~~ *defined* in
22 K.S.A. 66-101a, and amendments thereto, but does not include any such
23 utility that is a cooperative as defined in K.S.A. 66-104d, and amendments
24 thereto, or owned by one or more such cooperatives;

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

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

34 Sec. 4. K.S.A. 2023 Supp. 66-1239 is hereby amended to read as
35 follows: 66-1239. (a) As used in this section:

36 (1) "Commission" means the state corporation commission;

37 (2) "contract" means a public utility's contract for the purchase of
38 electric power in the amount of at least ~~\$5,000,000~~ *\$10,000,000* annually;

39 (3) "generating facility" means any electric generating plant or
40 improvement to existing generation facilities;

41 (4) "stake" means a public utility's whole or fractional ownership
42 share or leasehold or other proprietary interest in a generating facility or
43 transmission facility;

An electric public utility shall be authorized to only implement discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to implement such discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When considering and making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and may condition the commission's determination on any factors that are relevant to the discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3). If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from implementing discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) after December 31, 2030, and shall not otherwise affect or terminate any discounted rates implemented by the public utility pursuant to this section or any regulatory or ratemaking treatment of such discounted rates.

(i)

1 (5) "public utility" means the same as defined in K.S.A. 66-104, and
2 amendments thereto; and

3 (6) "transmission facility" means: (A) Any existing line, and
4 supporting structures and equipment, being upgraded for the transfer of
5 electricity with an operating voltage of 34.5 kilovolts or more of
6 electricity; or (B) any new line, and supporting structures and equipment,
7 being constructed for the transfer of electricity with an operating voltage
8 of 230 kilovolts or more of electricity.

9 (7) *"Weighted average cost of capital" means the same as defined in*
10 *section 1, and amendments thereto.*

11 (b) (1) Prior to undertaking the construction of, or participation in, a
12 transmission facility, a public utility may file with the commission a
13 petition for a determination of the rate-making principles and treatment, as
14 proposed by the public utility, that will apply to the recovery in wholesale
15 or retail rates of the cost to be incurred by the public utility to acquire such
16 public utility's stake in the transmission facility during the expected useful
17 life of the transmission facility.

18 (2) The commission shall issue an order setting forth the rate-making
19 principles and treatment that will be applicable to the public utility's stake
20 in the transmission facility in all rate-making proceedings on and after
21 such time as the transmission facility is placed in service or the term of the
22 contract commences.

23 (3) The commission in all proceedings in which the cost of the public
24 utility's stake in the transmission facility is considered shall utilize the rate-
25 making principles and treatment applicable to the transmission facility.

26 (4) If the commission fails to issue a determination within ~~180~~ days
27 of the date a petition for a determination of rate-making principles and
28 treatment is filed, the rate-making principles and treatment proposed by
29 the petitioning public utility will be deemed to have been approved by the
30 commission and shall be binding for rate-making purposes during the
31 useful life of the transmission facility.

32 (5) If the commission does not have jurisdiction to set wholesale rates
33 for use of the transmission facility the commission need not consider rate-
34 making principles and treatment for wholesale rates for the transmission
35 facility.

36 (c) (1) ~~Prior to undertaking the construction of, or participation in,~~
37 *acquiring a stake in* a generating facility, prior to entering into a new
38 contract or prior to retiring or abandoning a generating facility, or within a
39 reasonable time after retirement or abandonment if filing before retirement
40 or abandonment is not possible under the circumstances, a public utility
41 may file with the commission an application for a determination of the
42 rate-making principles and treatment, as proposed by the public utility, that
43 will apply to:

1 (A) Recovery in wholesale or retail rates of the cost to be incurred by
2 the public utility to acquire such public utility's stake in the generating
3 facility during the expected useful life of the generating facility or the
4 recovery in rates of the contract during the term thereof; or

5 (B) reflection in wholesale or retail rates of the costs to be incurred
6 and the cost savings to be achieved by the public utility in retiring or
7 abandoning such public utility's stake in the generating facility, including,
8 but not limited to, the reasonableness of such retirement or abandonment.

9 (2) Any utility seeking a determination of rate-making principles and
10 treatment under subsection (c)(1) shall as a part of its filing ~~submit the~~
11 ~~following information:~~ (A) A description of the public utility's
12 ~~conservation measures;~~ (B) a description of the public utility's demand
13 ~~side management efforts;~~ (C) the public utility's ten-year generation and
14 ~~load forecasts;~~ and (D) a description of all power supply alternatives
15 ~~considered to meet the public utility's load requirements~~ *describe how the*
16 *public utility's stake in the generating facility is consistent with the public*
17 *utility's most recent preferred plan and resource acquisition strategy*
18 *submitted to the commission.*

19 (3) In considering the public utility's ~~supply preferred plan and~~
20 ~~resource acquisition strategy~~, the commission may consider if the public
21 utility issued a request for proposal from a wide audience of participants
22 willing and able to meet the needs identified under the public utility's
23 ~~generating supply preferred plan~~, and if the plan selected by the public
24 utility is reasonable, reliable and efficient.

25 (4) The commission shall issue an order setting forth the rate-making
26 principles and treatment that will be applicable to the public utility's stake
27 in the generating facility or to the contract in all rate-making proceedings
28 *and all securitization proceedings* on and after such time as the generating
29 facility is:

30 (A) Placed in service or the term of the contract commences; or

31 (B) retired or abandoned.

32 (5) *With respect to a new gas-fired generating facility, unless the*
33 *commission timely elects not to set forth ratemaking principles applicable*
34 *in the future on the grounds that acquiring a stake in such a generating*
35 *facility is not reasonable, then notwithstanding any other provision of law,*
36 *the public utility shall be permitted to implement a new rate adjustment*
37 *mechanism designed to recover the return on 100% of amounts recorded*
38 *to construction work in progress on the public utility's books for the public*
39 *utility's stake in such a generating facility* *at the weighted average cost of*
40 *capital without offset, adjustment or reduction for any other issue or*
41 *consideration, except that such return shall be in lieu of any otherwise*
42 *applicable allowance for funds used during construction that would have*
43 *accrued from and after the effective date of such rate adjustment*

(A)

, which shall not exceed the definitive cost estimate found reasonable by the commission in a proceeding conducted pursuant to this section for the public utility's acquisition of the public utility's stake in such generating facility, unless otherwise ordered by the commission in a subsequent proceeding,

inclusion of construction work in progress in

1 mechanism. A rate adjustment mechanism authorized pursuant to this
 2 section shall become effective not sooner than 365 days after construction
 3 of the generation facility begins and within 30 days of the filing for the
 4 establishment of such mechanism by the public utility. As construction of
 5 the public utility's stake in such a generating facility continues and the
 6 balance of construction work in progress grows, the rate adjustment
 7 mechanism in effect shall be subject to periodic increases, without
 8 adjustment, offset or reduction for any other issue or consideration, except
 9 that such periodic increases shall not occur more frequently than once
 10 every six months. Except as provided in this section, the public utility's
 11 customers shall be charged pursuant to such rate adjustment mechanism
 12 until such time as new base rates reflecting the public utility's investment
 13 in such generating facility take effect, with such base rates to include
 14 carrying costs on any unrecovered portion of such investment at the public
 15 utility's weighted average cost of capital as determined in the rate-making
 16 proceeding setting such base rates that occurred between the date such
 17 generation facility was placed in service on the public utility's books and
 18 the effective date of base rates in such proceeding. A rate adjustment
 19 mechanism authorized pursuant to this section shall be permitted to
 20 remain in effect for a period not to exceed six years.

60

a deferral for depreciation expense incurred and

Attachment A

21 (6) The commission in all proceedings in which the cost of the public
 22 utility's stake in the generating facility or the cost of the purchased power
 23 under the contract is considered shall utilize the rate-making principles and
 24 treatment applicable to the generating facility, contract or retired or
 25 abandoned generating facility.

240

26 (6)(7) If the commission fails to issue a determination within 180
 27 days of the date a petition for a determination of rate-making principles
 28 and treatment is filed, the rate-making principles and treatment proposed
 29 by the petitioning public utility will be deemed to have been approved by
 30 the commission and shall be binding for rate-making purposes during the
 31 useful life of the generating facility, during the term of the contract or
 32 during the period when the cost of the retired or abandoned generating
 33 facility is reflected in customer rates.

Attachment B

34 (d) The public utility shall have one year from the effective date of
 35 the determination of the commission to notify the commission whether it
 36 will construct or participate in the construction of acquire a stake in the
 37 generating or transmission facility, whether it will perform under terms of
 38 the contract or whether it will retire or abandon the generating facility.

(f)

39 (e) If the public utility notifies the commission within the one-year
 40 period that the public utility will not construct or participate in the
 41 construction of acquire a stake in the generating or transmission facility,
 42 that it will not perform under the terms of the contract or that it will not
 43 retire or abandon the generating facility, then the determination of rate-

1 making principles pursuant to subsection (b) or (c) shall be of no further
2 force or effect, shall have no precedential value in any subsequent
3 proceeding, and there shall be no adverse presumption applied in any
4 future proceeding as a result of such notification.

(g)

5 ~~(f)~~ If the public utility notifies the commission under subsection ~~(d)~~
6 that it will ~~construct or participate~~ *acquire a stake* in a generating facility
7 or *participate in a* purchase power contract and subsequently does not, or
8 that it will retire or abandon a generating facility and subsequently does
9 not, it will be required to notify the commission immediately *in the*
10 *proceeding it initiated pursuant to this section* and ~~file an alternative~~
11 ~~supply plan with the commission pursuant to subsection (e) within 90 days~~
12 *provide notification of a change in the utility's preferred resource plan as*
13 *required by commission order.*

(e)

14 Sec. 5. K.S.A. 2023 Supp. 66-101j and 66-1239 are hereby repealed.

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

Attachment A

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(B) If a public utility implements a rate adjustment mechanism pursuant to this paragraph and subsequently terminates the initiative to acquire a stake in the generating facility, the commission shall have the authority, after a hearing is held on the matter, to order the public utility to refund customers any amounts collected through such rate adjustment mechanism.

(C) A public utility shall be authorized to implement a rate adjustment mechanism pursuant to this paragraph until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to implement a rate adjustment mechanism pursuant to this paragraph until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When considering and making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the rate adjustment mechanism authorized pursuant to this paragraph. If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from implementing a rate adjustment mechanism after December 31, 2030, and shall not otherwise affect or terminate any rate adjustment mechanism implemented by the public utility pursuant to this section or any regulatory or ratemaking treatment of such rate adjustment mechanism.

Attachment B

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(1) It is the intent of the legislature that when a public utility files a petition for a determination of ratemaking principles and treatment pursuant to subsection (b) or (c), consistent with the state corporation commission's customary practices, the commission shall:

(A) Issue a determination on such petition in an expeditious manner; and

(B) when circumstances allow, attempt to issue such determination in a period of time that is less than the 240-day deadline to issue such determination established pursuant to subsection (b) or (c).

(2) In furtherance of such legislative intent, a public utility that intends to file a petition for a determination of ratemaking principles and treatment pursuant to this section shall provide notice to the commission of such public utility's intent to file such petition not less than 30 days before filing a petition pursuant to this section. Upon receipt of such notice, the commission shall provide notice of the public utility's intent to file a petition pursuant to this section to each person or entity that was a party to or an intervenor in the public utility's most recently concluded base rate case.

(3) In any proceeding conducted pursuant to this section, any application for intervention in such proceeding shall be submitted not later than 10 days after the public utility's filing of a petition for a determination of ratemaking principles and treatment. The commission shall adopt a procedural schedule for the proceeding not later than 30 days after a public utility files a petition for a determination of ratemaking principles and treatment pursuant to this section.

(e)