

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2225

As Amended by House Committee on Energy,
Utilities and Telecommunications

Brief*

HB 2225, as amended, would amend law authorizing a Kansas Corporation Commission (KCC)-regulated utility to recover costs associated with the transmission of electric power through a transmission delivery charge (TDC) and require public utilities to evaluate the regional rate competitiveness and impact to economic development in rate proceedings.

[*Note:* The bill would only apply to electrical utility companies that are under KCC jurisdiction.]

Applications for Rate Changes

The bill would amend law relating to applications for rate changes to include a new section that would require any general rate proceeding of electric public utilities serving more than 20,000 customers to evaluate and include assessments of the following for any application for a rate change:

- The regional rate competitiveness of the electric public utility's current and proposed rates; and
- The impact of the electric public utility's current and proposed rates upon economic development within the state.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Transmission Delivery Charges

The bill would allow a for-profit, investor-owned electric utility serving more than 20,000 customers in the state that elects to recover transmission-related costs through a TDC to include as a component of the TDC the following:

- All transmission-related costs associated with transmission facilities that are constructed as a result of a notification or directive to construct from a regional transmission organization (RTO) or independent system operator (ISO) that is regulated by the Federal Energy Regulatory Commission (FERC) or its successor agency; and
- All fees and costs imposed on the electric utility in connection with the operation of wholesale power markets by an RTO, ISO, or other entity that is regulated by FERC, other federal agency, or any successor federal agency.

[*Note:* Kansas is a member of the Southwest Power Pool (SPP), which is an RTO.]

The bill would also allow a for-profit, investor-owned electric utility serving more than 20,000 customers in the state to recover through a TDC the transmission-related costs associated with transmission facilities constructed as a result of such utility's internal or local planning processes absent a notification to construct or similar directive from an RTO or ISO that is regulated by FERC or any successor agency subject to such utility's compliance with the section.

Cost Recovery

The bill would require a utility, in order to recover costs as a component of a TDC and to facilitate KCC and KCC-authorized intervenor review, to make a compliance filing with the KCC prior to the time period provided for the KCC to

adjust the return on equity relating to such costs. The annual compliance filing would be required to include the following:

- For non-blanket work order transmission projects over \$15 million or other amount deemed necessary by the KCC staff in consultation with the filing utility, an itemized projection of transmission spending for the succeeding and second succeeding calendar years;
- For each transmission project:
 - A project identifier or name;
 - Anticipated in-service date;
 - The projected cost;
 - Specified location within the utility's system;
 - Whether the project is classified as a new build, rebuild, upgrade, or any other appropriate classification;
 - Narrative describing the reason for the project and anticipated reliability benefits;
 - Description of the original vintage of the replaced facilities if the project is classified as a rebuild or upgrade; and
 - Load additions or economic development accommodated by the project, if any; and
- Proposed date and time, no later than 90 days after the utility filed the compliance filing, for representatives of the public utility to conduct a technical conference for discussing details of the compliance filing with KCC staff, Citizen's Utility Ratepayer Board (CURB), and other KCC-authorized intervenors; and
- Proposed date and time, no later than 120 days after the utility filed the compliance filing, for KCC

to hold a public workshop in which representatives of the public utility must present the details associated with the transmission projects that are anticipated in the succeeding calendar year, which allows for questions and comments from the KCC, KCC staff, and other KCC-authorized intervenors.

Return on Equity

The bill would require, beginning January 1, 2024, and before April 1, 2024, that for any utility electing to recover the costs described regarding a TDC, the KCC to adjust the return on equity used to determine the revenue requirement of such costs from FERC's jurisdictional return on equity to the KCC's authorized return on equity last used to set the utility's base rates in effect at the time of filing the TDC update.

If a return on equity was not explicitly established during the utility's last general rate case, the KCC would be required to determine an appropriate return on equity from the record of the last general rate case to establish the revenue requirement for such costs.

The bill would state the KCC's authorized return on equity would not impact any project that was constructed as a result of a notification to construct or similar directive from a RTO or ISO that is regulated by FERC or any successor agency.

In any transmission delivery charge update filing, a utility electing to recover the costs through a TDC would be required to utilize the KCC's authorized return on equity that was used to set the utility's base rates in effect at the time of the update filing or that was stipulated and approved by the KCC for use in the transmission delivery charge if a return on equity was not explicitly set during the last general rate case, to determine the utility's transmission delivery charge update.

Background

The bill was introduced by the House Committee on Energy, Utilities and Telecommunications at the request of a representative of the KCC.

House Committee on Energy, Utilities and Telecommunications

Proponent Testimony

In the House Committee hearing on February 14, 2023, representatives of Americans for Prosperity-Kansas, Kansas Chamber, KCC, and Kansans for Lower Electric Rates testified as **proponents**, stating the bill would allow the KCC more control and oversight of development in Kansas, which would help protect ratepayers and improve regional rate competitiveness.

Written-only proponent testimony was provided by a representative of the Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association.

Neutral Testimony

Written-only neutral testimony was provided by a representative of the Citizens' Utility Ratepayer Board (CURB).

Opponent Testimony

Opponent testimony was provided by a representative of Evergy, stating the bill is regressive regulatory policy in its current form. Repealing the TDC would prevent Evergy from immediately passing on any savings or decreases from the charge until the next rate case and would cause an increase in rate cases that would negatively impact customers.

No other testimony was provided.

The House Committee recommended the bill be passed on February 21, 2023, but the bill was withdrawn from the House Calendar and referred to the House Committee on Appropriations on February 22, 2023. The bill was then withdrawn from the House Committee on Appropriations and rereferred to the House Committee on Energy, Utilities and Telecommunications on March 7, 2023. On March 9, 2023, the House Committee amended the bill to:

- Require an electric public utility, in any general rate proceeding of an electric public utility serving more than 20,000 customers, to evaluate and include an assessment in its application for a rate change: the regional rate competitiveness of the current and proposed rates, and the impact of the utility's current and proposed rates upon economic development within the state;
- Require for-profit, investor-owned electric utility serving more than 20,000 customers in the state that elects to recover the utility's transmission-related costs through a TDC to include all fees and costs imposed on the electric utility in connection the operation of wholesale power markets by a RTO, ISO, or other entity that is regulated by FERC, other federal agency, or any successor federal agency;
- Clarify language regarding notifications, the population served by a for-profit, investor-owned electric utility, and the utility's compliance with new requirements that were added by other amendments;
- Require certain information to be included in compliance filings with the KCC;

- Require the utilities to hold technical conferences and public workshops; and
- Require the KCC to adjust the return on equity for any utility electing to recover the costs through a TDC.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, CURB indicates that enactment of the bill would result in \$40,000 of additional expenditures from the agency fee fund in FY 2023 and all subsequent fiscal years. The expenditures would be made to retain expert consultants to evaluate the recoverability of transmission-related costs and analyze the impact of such costs on consumers' utility rates. This estimate assumes that the additional consulting fees would total \$60,000 per rate case and that the agency would intervene in one rate case every 18 months, on average.

According to the KCC, enactment of the bill would not have a fiscal effect on agency operations.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Transmission delivery charge; Kansas Corporation Commission; investor-owned electric utility; Federal Energy Regulatory Commission; regional transmission organization; Southwest Power Pool; cost of recovery of transmission-related costs; transmission facilities; Citizens' Utility Ratepayer Board