

Senate Substitute for HOUSE BILL No. 2482

AN ACT creating the energy efficiency investment act.

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

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

- (1) “Commission” means the state corporation commission;
- (2) “demand response” means measures that decrease peak demand or shift demand to off-peak periods of time;
- (3) “demand-side program” means any program conducted by: (A) An electric utility to reduce the net consumption of electricity by a retail electric customer; or (B) a natural gas utility to reduce the net consumption of natural gas by a retail gas customer.
“Demand-side program” may include, but shall not be limited to: (A) Energy efficiency measures, not to include any measures to incent fuel switching for residential heating systems; (B) load management; (C) demand response; and (D) interruptible or curtailable load;
- (4) “energy efficiency” means measures that reduce the amount of energy required to achieve a given end use; and
- (5) “public utility” means any public electric or gas utility, as defined in K.S.A. 66-101, and amendments thereto, but does not include a municipally-owned electric or gas utility or an electric or gas cooperative that is exempt from commission jurisdiction pursuant to K.S.A. 66-104d, and amendments thereto.

(b) It is the goal of the state to promote the implementation of cost-effective demand-side programs in Kansas. It shall be the policy of the state to value demand-side program investments equal to traditional investments in supply and delivery infrastructure as much as is practicable, but public utilities shall not be required to offer, implement or continue demand-side programs.

(c) (1) (A) The commission shall permit public utilities to implement commission-approved demand-side programs and cost recovery mechanisms submitted pursuant to this section. The commission shall issue an order on any demand-side program plan and cost-recovery mechanisms within 180 days after submission to the commission. The commission may extend the approval period to 240 days for good cause. Consistent with K.S.A. 66-117(c), and amendments thereto, if the commission fails to issue a final order on such program plan and cost-recovery mechanism within 180 days, or 240 days if the approval period was extended by the commission for good cause, such program plan and cost-recovery mechanism shall be deemed approved by the commission and shall take effect on the proposed effective date contained in such plan.

(B) The public utility and the commission shall both have the independent authority to accept or reject any proposed establishment, continuation or modification of a demand-side program, portfolio of programs or associated cost-recovery or incentive mechanisms, but no such establishment, continuation or modification of such programs or mechanisms shall take effect without the approval of both the utility and the commission. If the public utility rejects modifications to a demand-side program or portfolio of programs approved by the commission, including modifications to the cost-recovery mechanism, the public utility shall not be required to implement the program or mechanism.

(C) Upon final ruling of the commission order, the public utility has the right to reconsider and may withdraw its plan during the reconsideration period, which shall not exceed 30 calendar days from the date the final order was issued. Pursuant to K.S.A. 77-613, and amendments thereto, the time period for filing a petition for judicial review shall not begin until the completion of any such reconsideration period.

(D) In making its decision whether or not to approve the proposed program, the commission shall determine the appropriate test for evaluating the cost-effectiveness of the demand-side program. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest and is supported by a reasonable budget in the context of the overall budget.

(2) The commission shall allow recovery of the reasonable and prudent costs associated with delivering commission-approved demand-side programs, so long as the program: (A) Results in energy or demand savings; and (B) is beneficial to customers in the customer class for which the programs were implemented, whether or not the program is utilized

by all customers in such class. The fact that a commission-approved program proves not to be cost-effective is not by itself sufficient grounds for disallowing cost recovery. Programs determined to be non-cost-effective, other than programs targeted to low-income customers or general education campaigns, shall be modified to address deficiencies or terminated following such determination.

(d) (1) To comply with this section, the commission may allow cost recovery mechanisms that further encourage investments in demand-side programs. Such cost recovery mechanisms may include, but shall not be limited to: (A) Capitalization of investments in and expenditures for demand-side programs; (B) recovery of lost revenue associated with demand-side programs; (C) decoupling; (D) rate design modifications; (E) accelerated depreciation on demand-side investments; and (F) allowing the public utility to retain a portion of the net benefits of a demand-side program for its shareholders.

(2) In determining rates for electricity as part of a demand-side program, the commission shall fairly apportion the costs and benefits of such programs to each customer class.

(e) To achieve the goals of this act, the commission shall:

(1) Provide timely cost recovery for electric public utilities;

(2) ensure that the financial incentives for an electric public utility are aligned with helping such utility's customers use energy more efficiently and in a manner that sustains or enhances such customers' incentives to use energy more efficiently;

(3) provide timely earnings opportunities for public utilities associated with cost-effective, measurable and verifiable demand-side program savings;

(4) provide oversight and approval for utility-specific settlements and tariff provisions; and

(5) provide independent evaluation of demand-side programs, as deemed necessary by the commission.

(f) On or before May 31 of each year, each public utility shall submit an annual report to the commission describing the results of such demand-side programs for the previous calendar year. The report shall include:

(1) Program expenditures, including incentive payments;

(2) peak demand and energy savings impacts and the techniques used to estimate such impacts;

(3) avoided costs and the techniques used to estimate such costs;

(4) the estimated cost-effectiveness of the demand-side programs;

(5) the net economic benefits of the demand-side programs; and

(6) a comparison of the commission authorized program budget to actual costs.

(g) The commission may adopt rules and regulations for the administration of this act.

(h) This section shall be known and may be cited as the Kansas energy efficiency investment act.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.