

2021 Kansas Statutes

66-101i. Same; commission authorized to approve contract electric rates outside a general rate proceeding; cost recovery from rate classes; commission status report to the legislature. (a)

Notwithstanding the provisions of K.S.A. 66-101b and 66-109, and amendments thereto, the commission shall have the authority to approve a contract rate, outside a general rate proceeding, that is not based on the electric public utility's cost of service for a facility, if the commission:

(1) (A) Determines that the facility would not continue operations, or resume operations that had previously been suspended, in the state of Kansas without such contract rate; and
(B) determines that the contract rate is in the interest of the state of Kansas based on:
(i) The interests of the customers of the electric public utility serving the facility;
(ii) an evaluation of the incremental cost to serve the facility; and
(iii) the interests of the citizens of the state generally in promoting economic development, retaining the tax base, keeping employment opportunities in the state and promoting such other benefits to the state as the commission may determine are created by approval of the contract rate;

(2) allocates the reduced revenues from the contract rate, as determined by a comparison of the contract rate to the revenues that would have been generated at the retail rate the facility would have paid without such contract rate, to the electric public utility's other non-contract customers through a uniform percentage adjustment. Such reduced revenues shall be applied in each general rate proceeding of the electric public utility serving the facility to all components of the base rates of all customer classes, except the rates for service provided to customers under any contract rate approved by the commission pursuant to subsection (a) or (b) or the commission's general rate making authority; and

(3) (A) approves a tracking mechanism to track reductions in revenue experienced by the electric public utility serving the facility as a result of the contract rate from the date the contract rate becomes effective; and
(B) such reductions in revenue shall be deferred to a regulatory asset and shall accrue interest at the weighted average cost of capital used by the commission to set the electric public utility's rates in its most recently concluded general rate proceeding with the balance of such regulatory asset to be included in the rate base and revenue requirement of the electric public utility in each of its general rate proceedings through an amortization of the balance over a reasonable period until fully collected from the electric public utility's non-contract rate customers.

(b) Notwithstanding the provisions of K.S.A. 66-101b and 66-109, and amendments thereto, the commission shall have the authority to approve a contract rate, outside a general rate proceeding, that is based on the electric public utility's incremental cost of service for a facility, if the commission:

(1) (A) Determines that the facility would not commence or expand operations in the state of Kansas without such contract rate;

(B) determines that the contract rate recovers the incremental cost of providing service to the facility; and

(C) determines that the contract rate is in the interest of the state of Kansas based on:

(i) The interests of the customers of the electric public utility serving the facility;

(ii) the incremental cost of serving the facility; and

(iii) the interests of the citizens of the state generally in promoting economic development, expanding the tax base, increasing employment opportunities in the state and promoting such other benefits to the state as the commission may determine are created by approval of

the contract rate; and

(2) uses the reduction in revenues that result from any contract rate approved by the commission pursuant to this subsection that will be in effect during the effective period of the rate for the purposes of determining the electric utility's revenue requirement in each general rate proceeding concluded after the effective date of this section.

(c) The contract rates authorized by this section may be approved by the commission for a term of up to 10 years, and an electric public utility may apply for reapproval of such contract rates for a facility that the commission has granted approval under this section.

(d) The provisions of this section shall not affect any contract rates approved by the commission prior to, and in effect on, the effective date of this section. This section shall not:

- (1) Affect or diminish the authority of the commission to approve just and reasonable contract rates filed pursuant to the commission's general ratemaking authority according to custom and practice of the commission in place prior to the effective date of this section; or
- (2) establish standards for approval of such contract rates.

(e) If the commission approves a contract rate pursuant to this section, the commission shall not have the authority to modify or eliminate any such rate during the specified term, subject to the conditions established by this section.

(f) Starting in January 2023, the commission shall biennially provide a status report to the legislature about any contract rates authorized pursuant to this section. Such report shall include the:

- (1) Number of entities with such contract rates;
- (2) number of entities with increased load;
- (3) number of entities with decreased load;
- (4) aggregate load and change in aggregate load on an annual basis;
- (5) total subsidy and the subsidy for each individual contract;
- (6) annual and cumulative rate increase on non-contract rate customers; and
- (7) estimated economic development impact of entities with contract rates that occurred as a result of such contract rates through an evaluation of the annual: (A) Total employment for such entities; (B) change in employment for such entities; and (C) tax revenue generated by such entities.

(g) As used in this section:

- (1) "Electric public utility" means the same as prescribed in K.S.A. 66-101a, and amendments thereto, but does not include any such utility that is a cooperative as defined in K.S.A. 66-104d, and amendments thereto, or owned by one or more such cooperatives; and
- (2) "facility" means an existing or proposed building or buildings of an existing or potential electric customer with existing or expected load equal to, or in excess of, a monthly demand of 50 megawatts, and such load may represent the aggregate demand of multiple meter accounts.

History: L. 2020, ch. 13, § 1; July 1.