

## 2021 Kansas Statutes

**66-1,239. Income taxes as a component of retail rates; tracking and overcollection or undercollection of income tax expense, filing requirements; inclusion in retail rates determined by commission order.** (a) If a public utility as defined in K.S.A. 66-104, and amendments thereto, includes expenses related to income taxes as a component of its retail rates, the utility shall track and defer into a regulatory asset or liability, as appropriate, any overcollection or undercollection of income tax expense if the income tax rates assessed on such utility are adjusted as a result of any changes in state or federal law.

(b) When any change in state or federal law either increases or decreases the income tax rates assessed on a utility and results in an overcollection or undercollection of income tax expenses that is equal to or exceeds 0.25% of such utility's base revenue level approved by the state corporation commission in the utility's most recent general rate proceeding, such utility shall file an application for new retail rates reflecting the adjusted income taxation rates with the commission within 60 days of the enactment of such change in state or federal law. The utility shall either refund the tracked overcollected amounts to, or recover the tracked undercollected amounts from, such utility's retail customers in a manner approved by the commission.

(c) A filing required pursuant to subsection (b) shall not:

- (1) Require the utility to file a full general rate proceeding;
- (2) require the utility to update any component of such utility's retail rates other than the income tax expense component; or
- (3) constitute a violation of any existing rate moratorium agreement if such filing only updates the income tax expense component of a utility's rates.

(d) The state corporation commission shall issue an order addressing the application filed under subsection (b):

- (1) That, if requested by the utility, gives due consideration to the common interests of the public utility and its customers, including, but not limited to, use of a two-year implementation of current period rate changes to maintain the credit quality of the utility by ensuring that any such change in retail rates will not cause the utility's credit metrics that are traditionally considered by the credit rating agencies to deteriorate to a level that could impair the utility's current credit rating. To the extent a retail rate change to address adjusted income taxes is implemented over a period of time, as provided in this paragraph, the utility shall: (A) Track and defer any overcollection or undercollection of income tax expenses as a regulatory liability or asset, as appropriate, that will accrue interest at the utility's weighted average cost of capital, as determined by the commission in the utility's most recent general rate proceeding; and (B) refund or collect the balance of such amounts in its next full general rate proceeding; and
- (2) within 120 days of the date of such filing.

(e) If a utility has a full general rate proceeding pending before the commission, or has provided notice to the commission of its intent to file a full general rate proceeding application, at the time any adjusted income tax rates become effective, upon a showing by the utility that the public interest would be promoted, the commission may issue an order finding that such adjusted state or federal income tax rates should not be reflected in such utility's retail rates until the utility's new retail rates become effective following such utility's full general rate proceeding.

(f) Excess accumulated deferred income tax balances resulting from income taxes adjusted due to changes in state or federal law shall remain unamortized on the public utility's books of account until new retail rates from such utility's next full general rate proceeding after

the adjusted income tax rates take effect. Such balances shall be amortized and reflected in retail rates at such time. If requested by the utility, excess accumulated deferred income tax balances resulting from changes in state law effective January 2021, shall be amortized over a period of not less than 30 years in retail rates for such utility by order of the commission. Excess accumulated deferred income tax balances resulting from any other changes in state or federal law shall be amortized in retail rates for such utility by order of the commission in a manner consistent with requirements of state and federal tax law and implementing regulations and in a manner that will not impair the utility's credit rating.

(g) The provisions of this section shall not apply to any:

- (1) Municipal electric utility or natural gas utility; or
- (2) utility that is a cooperative as defined in K.S.A. 66-104d, and amendments thereto, or owned by one or more such cooperatives.

(h) For the purposes of this section, "overcollection or undercollection of income tax expense" means the portion of utility revenue representing the difference between the cost of service as approved by the state corporation commission in the utility's most recent base rate proceeding and the cost of service that would have resulted had the provision for state or federal income taxes been based upon the adjusted corporate income tax rate.

"Overcollection or undercollection of income tax expense" does not include the effects of accumulated deferred income taxes or excess accumulated deferred income taxes.

**History:** L. 2020, ch. 13, § 3; July 1.