

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2225

By Committee on Energy, Utilities and Telecommunications

1-30

1 AN ACT concerning utilities; relating to electric utilities; including cost  
2 recovery of transmission-related costs for transmission facilities  
3 constructed as a result of a directive from the regional transmission  
4 organization; ~~excluding~~ **authorizing** cost recovery for transmission  
5 facilities constructed as a result of internal or local planning **under**  
6 **certain circumstances; requiring the commission to adjust the**  
7 **authorized return on equity for such internal or local transmission**  
8 **projects recovered through a transmission delivery charge;**  
9 **requiring public utilities to evaluate the regional rate**  
10 **competitiveness and impact to economic development in rate**  
11 **proceedings; amending K.S.A. 66-117 and 66-1237 and repealing the**  
12 **existing section sections.**  
13

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

15 **Section 1. K.S.A. 66-117 is hereby amended to read as follows: 66-**  
16 **117. (a) Unless the state corporation commission otherwise orders, no**  
17 **common carrier or public utility over which the commission has**  
18 **control shall make effective any changed rate, joint rate, toll, charge**  
19 **or classification or schedule of charges, or any rule or regulation or**  
20 **practice pertaining to the service or rates of such public utility or**  
21 **common carrier except by filing the same with the commission at least**  
22 **30 days prior to the proposed effective date. The commission, for good**  
23 **cause, may allow such changed rate, joint rate, toll, charge or**  
24 **classification or schedule of charges, or rule or regulation or practice**  
25 **pertaining to the service or rates of any such public utility or common**  
26 **carrier to become effective on less than 30 days' notice. If the**  
27 **commission allows a change to become effective on less than 30 days'**  
28 **notice, the effective date of the allowed change shall be the date**  
29 **established in the commission order approving such change, or the**  
30 **date of the order if no effective date is otherwise established. Any such**  
31 **proposed change shall be shown by filing with the state corporation**  
32 **commission a schedule showing the changes, and such changes shall be**  
33 **plainly indicated by proper reference marks in amendments or**  
34 **supplements to existing tariffs, schedules or classifications, or in new**  
35 **issues thereof.**

36 **(b) Whenever any common carrier or public utility governed by**

1 the provisions of this act files with the state corporation commission a  
2 schedule showing the changes desired to be made and put in force by  
3 such public utility or common carrier, the commission either upon  
4 complaint or upon its own motion, may give notice and hold a hearing  
5 upon such proposed changes. Pending such hearing, the commission  
6 may suspend the operation of such schedule and defer the effective  
7 date of such change in rate, joint rate, toll, charge or classification or  
8 schedule of charges, or any rule or regulation or practice pertaining to  
9 the service or rates of any such public utility or common carrier by  
10 delivering to such public utility or common carrier a statement in  
11 writing of its reasons for such suspension.

12 (c) The commission shall not delay the effective date of the  
13 proposed change in rate, joint rate, toll, charge or classification or  
14 schedule of charges, or in any rule or regulation or practice pertaining  
15 to the service or rates of any such public utility or common carrier,  
16 more than 240 days beyond the date the public utility or common  
17 carrier filed its application requesting the proposed change. If the  
18 commission does not suspend the proposed schedule within 30 days of  
19 the date the same is filed by the public utility or common carrier, such  
20 proposed schedule shall be deemed approved by the commission and  
21 shall take effect on the proposed effective date. If the commission has  
22 not issued a final order on the proposed change in any rate, joint rate,  
23 toll, charge or classification or schedule of charges, or any rule or  
24 regulation or practice pertaining to the service or rates of any such  
25 public utility or common carrier, within 240 days after the carrier or  
26 utility files its application requesting the proposed change, then the  
27 schedule shall be deemed approved by the commission and the  
28 proposed change shall be effective immediately, except that:

29 (1) For purposes of the foregoing provisions regarding the period  
30 of time within which the commission shall act on an application, any  
31 amendment to an application for a proposed change in any rate, which  
32 increases the amount sought by the public utility or common carrier  
33 or substantially alters the facts used as a basis for such requested  
34 change of rate, shall, at the option of the commission, be deemed a  
35 new application and the 240-day period shall begin again from the  
36 date of the filing of the amendment;:

37 (2) if hearings are in process before the commission on a  
38 proposed change requested by the public utility or common carrier on  
39 the last day of such 240-day period, such period shall be extended to  
40 the end of such hearings plus 20 days to allow the commission to  
41 prepare and issue its final order; and;

42 (3) nothing in this subsection shall preclude the public utility or  
43 common carrier and the commission from agreeing to a waiver or an

1 extension of the 240-day period.

2 (d) Except as provided in subsection (c), no change shall be made  
3 in any rate, toll, charge, classification or schedule of charges or joint  
4 rates, or in any rule or regulation or practice pertaining to the service  
5 or rates of any such public utility or common carrier, without the  
6 consent of the commission. Within 30 days after such changes have  
7 been authorized by the state corporation commission or become  
8 effective as provided in subsection (c), copies of all tariffs, schedules  
9 and classifications, and all rules and regulations, except those  
10 determined to be confidential under rules and regulations adopted by  
11 the commission, shall be filed in every station, office or depot of every  
12 such public utility and every common carrier in this state, for public  
13 inspection.

14 (e) Upon a showing by a public utility before the state  
15 corporation commission at a public hearing and a finding by the  
16 commission that such utility has invested in projects or systems that  
17 can be reasonably expected ~~(1)~~ to produce energy from a renewable  
18 resource other than nuclear for the use of its customers, ~~(2)~~ to cause  
19 the conservation of energy used by its customers; or ~~(3)~~ to bring about  
20 the more efficient use of energy by its customers, the commission may  
21 allow a return on such investment equal to an increment of from ~~1/2%~~  
22 0.5% to 2% plus an amount equal to the rate of return fixed for the  
23 utility's other investment in property found by the commission to be  
24 used or required to be used in its services to the public. The  
25 commission may also allow such higher rate of return on investments  
26 by a public utility in experimental projects, such as load management  
27 devices, which it determines after public hearing to be reasonably  
28 designed to cause more efficient utilization of energy and in energy  
29 conservation programs or measures which it determines after public  
30 hearing provides a reduction in energy usage by its customers in a  
31 cost-effective manner.

32 (f) Whenever, after the effective date of this act, an electric public  
33 utility, a natural gas public utility or a combination thereof, files  
34 tariffs reflecting a surcharge on the utility's bills for utility service  
35 designed to collect the annual increase in expense charged on its books  
36 and records for ad valorem taxes, such utility shall report annually to  
37 the state corporation commission the changes in expense charged for  
38 ad valorem taxes. For purposes of this section, such amounts charged  
39 to expense on the books and records of the utility may be estimated  
40 once the total property tax payment is known. If found necessary by  
41 the commission or the utility, the utility shall file tariffs which reflect  
42 the change as a revision to the surcharge. Upon a showing that the  
43 surcharge is applied to bills in a reasonable manner and is calculated

1 to substantially collect the increase in ad valorem tax expense charged  
2 on the books and records of the utility, or reduce any existing  
3 surcharge based upon a decrease in ad valorem tax expense incurred  
4 on the books and records of the utility, the commission shall approve  
5 such tariffs within 30 days of the filing. Any over or under collection of  
6 the actual ad valorem tax increase charged to expense on the books of  
7 the utility shall be either credited or collected through the surcharge  
8 in subsequent periods. The establishment of a surcharge under this  
9 section shall not be deemed to be a rate increase for purposes of this  
10 act. The net effect of any surcharges established under this section  
11 shall be included by the commission in the establishment of base rates  
12 in any subsequent rate case filed by the utility.

13 (g) Except as to the time limits prescribed in subsection (c),  
14 proceedings under this section shall be conducted in accordance with  
15 the provisions of the Kansas administrative procedure act.

16 (h) *In any general rate proceeding of an electric public utility serving*  
17 *more than 20,000 customers conducted pursuant to this section, the*  
18 *electric public utility shall evaluate and include in its application for a*  
19 *rate change an assessment of the following: (1) The regional rate*  
20 *competitiveness of the electric public utility's current and proposed rates;*  
21 *and (2) the impact of the electric public utility's current and proposed*  
22 *rates upon economic development within the state.*

23 ~~Section 1.~~ **Sec. 2.** K.S.A. 66-1237 is hereby amended to read as  
24 follows: 66-1237. (a) Any electric utility subject to the regulation of the  
25 state corporation commission pursuant to K.S.A. 66-101, and amendments  
26 thereto, may seek to recover costs associated with transmission of electric  
27 power, in a manner consistent with the determination of transmission-  
28 related costs from an order of a regulatory authority having legal  
29 jurisdiction, through a separate transmission delivery charge included in  
30 customers' bills. The electric utility's initial transmission delivery charge  
31 resulting from this section may be determined by the commission either  
32 from transmission-related costs approved in the electric utility's most  
33 recent retail rate filing or in an order establishing rates in response to a  
34 general retail rate application by an electric utility.

35 (b) (1) If an electric utility elects to recover its transmission-related  
36 costs through a transmission delivery charge, such electric utility shall  
37 have the right to implement a transmission delivery charge through an  
38 application to the commission.

39 ~~(+)(2)~~ (2) If an electric utility proposes to establish its initial transmission  
40 delivery charge other than in connection with an application to the  
41 commission that proposes a general retail rate change the commission  
42 shall, effective the same date as the effective date of the initial  
43 transmission delivery charge, unbundle the electric utility's retail rates in

1 such a manner that the sum of the revenue to be recovered from the initial  
2 transmission delivery charge and the non-transmission-related retail rates  
3 will be consistent with the revenue that would be recovered from the retail  
4 rates in effect immediately prior to the effective date of the initial  
5 transmission delivery charge.

6 (2)(3) If an electric utility proposes to establish its initial transmission  
7 delivery charge in connection with an application to the commission for a  
8 general retail rate change, the commission shall, in its order in such rate  
9 proceeding, determine the electric utility's transmission-related costs  
10 related to its service to Kansas retail customers and determine an initial  
11 transmission delivery charge sufficient to permit the electric utility to  
12 recover from its Kansas retail customers such utility's transmission-related  
13 costs incurred to provide service to such customers.

14 (c) *Except as provided in subsection (d)*, all transmission-related costs  
15 incurred by an electric utility and resulting from any order of a regulatory  
16 authority having legal jurisdiction over transmission matters, including  
17 orders setting rates on a subject-to-refund basis, shall be conclusively  
18 presumed prudent for purposes of the transmission delivery charge and an  
19 electric utility may change its transmission delivery charge whenever there  
20 is a change in transmission-related costs resulting from such an order. The  
21 commission may also order such a change if the utility fails to do so. An  
22 electric utility shall submit a report to the commission at least 30 business  
23 days before changing the utility's transmission delivery charge. If the  
24 commission subsequently determines that all or part of such charge did not  
25 result from an order described by this subsection, the commission may  
26 require changes in the transmission delivery charge and impose  
27 appropriate remedies, including refunds.

28 (d) (1) *A for-profit, investor-owned electric utility serving more than*  
29 *20,000 customers in Kansas that elects to recover such utility's*  
30 *transmission-related costs through a transmission delivery charge*  
31 *pursuant to this section may include, as a component of such charge, the*  
32 **following:**

33 (A) *All transmission-related costs associated with transmission*  
34 *facilities constructed as a result of a ~~notice~~ notification to construct or*  
35 *similar directive from a regional transmission organization or independent*  
36 *system operator that is regulated by the federal energy regulatory*  
37 *commission, or any successor agency; and*

38 (B) **all fees and costs imposed on the electric utility in connection**  
39 **with the operation of wholesale power markets by a regional**  
40 **transmission organization, independent system operator or other**  
41 **entity that is regulated by the federal energy regulatory commission,**  
42 **other federal agency or any successor federal agency.**

43 (2) ~~Such~~ *A for-profit, investor-owned electric utility shall not include*

1 **servicing more than 20,000 customers in Kansas may recover, as a**  
2 *component of a transmission delivery charge, transmission-related costs*  
3 *associated with transmission facilities constructed as a result of such*  
4 *utility's internal or local planning processes absent a ~~notice~~ notification*  
5 *to construct or similar directive from a regional transmission organization*  
6 *or independent system operator that is regulated by the federal energy*  
7 *regulatory commission, or any successor agency, subject to such utility's*  
8 **compliance with subsections (e) and (f).**

9 ~~(3) On July 1, 2023, if a for-profit, investor-owned electric utility-~~  
10 ~~serving more than 20,000 customers in Kansas, is recovering-~~  
11 ~~transmission-related costs as described in subsection (d)(2) through a-~~  
12 ~~transmission delivery charge.-~~

13 ~~(A) Within 90 days from such date, such utility shall file with the state~~  
14 ~~corporation commission a revision to such utility's transmission delivery-~~  
15 ~~charge to remove recovery of costs as described in subsection (d)(2); and-~~

16 ~~(B) within 240 days of receipt of such utility's request for revision, the~~  
17 ~~commission shall remove costs described in subsection (d)(2) and include~~  
18 ~~such costs as a component of such utility's rate base.~~

19 **To recover the**  
20 **costs described in subsection (d)(2) as a component of a transmission**  
21 **delivery charge and to facilitate commissioner and commission-**  
22 **authorized intervenor review, a utility shall make a compliance filing**  
23 **with the commission prior to the time period provided pursuant to**  
24 **subsection (f) for the commission to adjust the return on equity**  
25 **relating to such costs. A compliance filing shall include all the**  
26 **compliance filing details required by this subsection. Such utility shall**  
27 **continue to make annual compliance filings to the commission. Each**

28 **compliance filing shall provide the following:**  
29 **(1) For each non-blanket work order transmission project over**  
30 **\$15,000,000, or a different amount deemed necessary by the**  
31 **commission staff in consultation with the filing utility, an itemization**  
32 **of projected transmission spending for the succeeding calendar year**  
33 **and the second succeeding calendar year. The commission may expect**  
34 **a utility to provide more extensive details for transmission projects in**  
35 **the succeeding calendar year than for the second succeeding calendar**  
36 **year, but the utility shall provide as many details as reasonably**  
37 **possible for transmission projects in the second succeeding calendar**

38 **(2) for each transmission project:**

39 **(A) A project identifier or name;**

40 **(B) the anticipated in-service date;**

41 **(C) the projected cost;**

42 **(D) the specific location within the utility's system;**

43 **(E) whether the project is classified as a new build, rebuild,**

1 upgrade or any other appropriate classification;

2 (F) a description providing the purpose for the project and the  
3 anticipated reliability benefits;

4 (G) a description of the original vintage of the replaced facilities  
5 if the project is classified as a rebuild or upgrade; and

6 (H) the load additions or economic development benefits  
7 accommodated by the project, if any; and

8 (3) a proposed date and time for:

9 (A) Representatives of the public utility to conduct a technical  
10 conference for the purpose of discussing the details of the compliance  
11 filing with commission staff, the citizens utility ratepayer board and  
12 other commission-authorized intervenors. Such technical conference  
13 shall be held not later than 90 days after the utility filed the  
14 compliance filing; and

15 (B) the commission to hold a public workshop in which  
16 representatives of the public utility shall present the details associated  
17 with the transmission projects that are anticipated in the succeeding  
18 calendar year. The public workshop shall allow for questions and  
19 comments from the commission, commission staff and other  
20 commission-authorized intervenors. The public workshop shall be  
21 held not later than 120 days after the utility filed the compliance filing.

22 (f) Beginning January 1, 2024, and prior to April 1, 2024, for any  
23 utility electing to recover the costs described in subsection (d)(2), the  
24 commission shall adjust the return on equity used to determine the  
25 revenue requirement of such costs from the federal energy regulatory  
26 commission's jurisdictional return on equity to the state corporation  
27 commission's authorized return on equity last used to set the utility's  
28 base rates in effect at the time of filing the transmission delivery  
29 charge update. If a return on equity was not explicitly established  
30 during the utility's last general rate case, the commission shall  
31 determine an appropriate return on equity from the record of the last  
32 general rate case to establish the revenue requirement for such costs.  
33 The use of the state corporation commission's authorized return on  
34 equity shall not impact any project that was constructed as a result of  
35 a notification to construct or similar directive from a regional  
36 transmission organization or independent system operator that is  
37 regulated by the federal energy regulatory commission, or any  
38 successor agency. In any transmission delivery charge update filing, a  
39 utility electing to recover the costs described in subsection (d)(2) shall  
40 utilize the state corporation commission's authorized return on equity  
41 that was used to set the utility's base rates in effect at the time of the  
42 update filing or that was stipulated and approved by the commission  
43 for use in the transmission delivery charge if a return on equity was

1 **not explicitly set during the last general rate case, to determine the**  
2 **utility's transmission delivery charge update.**

3 ~~Sec. 2.~~ **3.** K.S.A. **66-117 and 66-1237**~~is~~ **are** hereby repealed.

4 ~~Sec. 3.~~ **4.** This act shall take effect and be in force from and after its  
5 publication in the statute book.