

Substitute for SENATE BILL No. 69

AN ACT concerning electric utilities; requiring a study of electric rates; relating to the legislative coordinating council; state corporation commission.

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

Section 1. (a) To provide information that may assist future legislative and regulatory efforts to craft forward-looking electric policy that leads to regionally competitive electric rates and reliable electric service, the legislative coordinating council shall authorize a study of the retail rates of Kansas electric public utilities. Such utilities shall include electric public utilities as defined in K.S.A. 66-101a, and amendments thereto, electric cooperative public utilities exempt from state corporation commission jurisdiction pursuant to K.S.A. 66-104d, and amendments thereto, and the three largest municipally owned or operated electric utilities by customer count.

(b) (1) To conduct the study, the legislative coordinating council shall select one or more independent organizations, and notwithstanding the provisions of K.S.A. 46-1202, and amendments thereto, such selection shall be made by an affirmative vote of at least five members of the council including at least one affirmative vote from a member of the minority party, that have experience with evaluating electric utilities and include input from residential, commercial and industrial customers, electric utilities and other energy stakeholders.

(2) To facilitate this study, any organization selected by the legislative coordinating council may request data from any electric utility identified in subsection (a) and must allow at least 14 days for the utility to respond. Prior to making a request for information of any electric utility, any organization selected by the council shall enter into a confidentiality agreement with the electric utility to assure nondisclosure of confidential business information.

(3) The state corporation commission shall assist any organization hired by the legislative coordinating council by sharing subject matter knowledge regarding Kansas electric utilities and assisting with the procurement of any necessary information requested by such organization. Such requests shall be subject to the provisions of the Kansas open records act, the judicial review act, the Kansas administrative procedures act and any other law or regulations applicable to the state corporation commission. Any dispute regarding the provision of information, including the establishment of reasonable protections for the treatment of confidential information, shall be decided by the commission.

(4) The study shall be completed and delivered to the state corporation commission in two parts. The first part of the study shall be comprised of the issues identified in subsections (c)(1) and (2) and shall be completed and made available on the commission's website by January 8, 2020, and the second part of the study shall be comprised of the issues identified in subsection (c)(3) and shall be completed and made available on the commission's website by July 1, 2020. The commission shall submit the first part of the study to the house committee on energy, utilities and telecommunications and the senate committee on utilities by January 14, 2020, and shall submit the second part of the study to such committees by January 12, 2021.

(5) The costs of the study shall be paid by the state corporation commission from an assessment of expenses pursuant to K.S.A. 66-1502, and amendments thereto, upon the utilities that are subject to the study, regardless of whether such utilities are subject to the jurisdiction of the commission.

(c) The study authorized by the legislative coordinating council shall address:

(1) The effectiveness of current Kansas ratemaking practices, including whether:

(A) Current ratemaking adequately attracts needed utility capital

investments and adequately discourages unnecessary capital investments in Kansas;

(B) current ratemaking appropriately balances utility profits with the public interest objectives of achieving competitive rates over time while providing the best practicable combination of price, quality and service;

(C) Kansas electric public utilities are currently recovering from Kansas retail electric ratepayers the full or partial cost, including a return on investment, of any investments that are no longer fully used or required to be used in service to the public within the state of Kansas, including, but not limited to, generation capacity investments;

(D) the investments that Kansas electric public utilities have made in electric transmission and renewable generation resources have contributed, and to what extent, to the obsolescence of all the other generation facility investments of such utilities;

(E) allowing Kansas investor-owned electric public utilities to recover costs through surcharges and riders, without a comprehensive ratemaking process, has unnecessarily contributed to rising wholesale and retail electricity prices;

(F) the current ratemaking processes for Kansas electric cooperatives and municipal utilities are in the public interest; and

(G) electricity providers in surrounding states are subject to similar state laws, regulations and oversight to such requirements in Kansas;

(2) options available to the state corporation commission and the Kansas legislature to affect Kansas retail electricity prices to become regionally competitive while providing the best practicable combination of price, quality and service, including reviewing whether:

(A) Capital expenditures and operating expenses of Kansas electric public utilities can be managed to achieve and sustain competitive retail rates while maintaining adequate and reliable service;

(B) any performance-based regulation, economic development initiatives, price-cap regulation or other non-traditional ratemaking methods should be considered to reduce retail electric rates or the level of increase of any rate;

(C) competitive markets for retail electricity can benefit all Kansas consumers;

(D) further investments in energy efficiency and renewable energy, including revenue decoupling and renewable energy incentives, can benefit all Kansas consumers;

(E) securitized ratepayer-backed bonds can benefit utilities and ratepayers by reducing investment risk, facilitating the recovery of certain stranded costs from under-utilized or otherwise obsolete generating and other facilities and lowering retail electric rates, and assisting in the transition to new technologies, including a review of whether securitized bonds could be effectively utilized by Kansas utilities;

(F) Kansas sales tax, property taxes, assessment rates and other fees and taxes on utilities are comparable to other states in the region and how such taxes and fees impact the competitiveness of utility rates;

(G) Kansas electric utilities and the state corporation commission can reduce the cost impacts of decisions of the southwest power pool by advocating for certain positions through the southwest power pool's stakeholder and regional state committee processes, including an identification of current and future issues most likely to impact Kansas retail electric rates;

(H) any other regulatory actions are available to the state corporation commission to manage or reduce retail electric rates; and

(I) legislative enactments can address retail electric rate escalation

in Kansas; and

(3) other consequential issues materially affecting Kansas electricity rates, including:

(A) Whether any costs incurred by Kansas electric public utilities to build and operate electric vehicle charging stations, including any necessary upgrades to distribution infrastructure, are recovered from ratepayers not using electric vehicle charging services;

(B) how rates for electric vehicle charging services should be designed to ensure such rates are just and reasonable and not subsidized by other utility customers;

(C) the potential effects of deregulating electric vehicle charging services in Kansas, including whether deregulation would ensure that electric vehicle charging services are not subsidized by public utility ratepayers not using electric vehicle charging services;

(D) whether Kansas consumers could benefit from improved access to advanced energy solutions, including micro grids, electric vehicles, charging stations, customer generation, battery storage and transactive energy;

(E) the extent to which transmission investments by Kansas electric public utilities have impacted retail rates, including any incremental regional transmission costs incurred by Kansas ratepayers for transmission investments in other states, and whether such costs have been fully offset by financial benefits such as improved access to low-cost renewable energy and wholesale energy markets;

(F) the costs and benefits incurred by Kansas ratepayers for transmission investments in Kansas, used to export energy out of Kansas;

(G) how rate increases or the associated rising costs of Kansas investor-owned electric public utilities impact the retail electric rates of Kansas electric cooperatives and municipal utilities;

(H) whether retail electric rates in Kansas are a material barrier to economic development in Kansas;

(I) the impact of contract rates with commercial and industrial customers and economic development rates on other customer classes, including whether expanded utilization of such approaches can benefit all customers over time;

(J) whether Kansas electric public utilities recover their costs of serving customers from each customer class on the basis of cost causation;

(K) how cyber and physical security and grid stabilization efforts have affected, or are projected to affect, electric public utility rates;

(L) the value of a utility integrated resource planning process that requires state regulatory approval; and

(M) economic analysis of the price fluctuations of generation fuels on the cost of electricity.

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

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

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.