

SENATE BILL No. 69

By Committee on Federal and State Affairs

1-31

1 AN ACT concerning the state corporation commission; requiring a study
2 of electric utilities; relating to just and reasonable electric rates; electric
3 rate changes, report to the legislature; amending K.S.A. 66-101b and
4 66-117b and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. The legislative coordinating council shall authorize a
8 study of the retail rates of Kansas electric public utilities including electric
9 public utilities as defined in K.S.A. 66-101a, and amendments thereto,
10 electric cooperative public utilities exempt from state corporation
11 commission jurisdiction pursuant to K.S.A. 66-104d, and amendments
12 thereto, and the 10 largest municipally owned or operated electric utilities
13 by customer count. To conduct the study, the legislative coordinating
14 council shall select one or more independent organizations that have
15 experience with evaluating electric utilities and include input from
16 residential, commercial and industrial customers and advanced energy
17 stakeholders. The study shall be completed and delivered to the senate
18 committee on utilities and the house of representatives committee on
19 energy, utilities and telecommunications by December 31, 2019. The costs
20 of the study shall be paid by the state corporation commission from an
21 assessment of expenses pursuant to K.S.A. 66-1502, and amendments
22 thereto, upon the utilities that are subject to the study regardless of whether
23 such utilities are subject to the jurisdiction of the state corporation
24 commission. To facilitate this study, every Kansas electric public utility
25 subject to this study shall provide any relevant information when
26 requested. Any disputes regarding the provision of information, including
27 the establishment of reasonable protections for the treatment of
28 confidential information, shall be decided by the state corporation
29 commission. The study shall address:

30 (a) The extent and impact of electric rate changes in Kansas,
31 including:

32 (1) The extent to which retail electric rates of Kansas electric public
33 utilities have increased or decreased since 2005;

34 (2) the amount of increase or decrease for all separate rates, fees or
35 charges including, but not limited to, energy charges, demand charges,
36 service fees and customer charges, tax surcharges, transmission

1 surcharges, cost adjustments for each fuel, debt financing charges, energy
2 efficiency surcharges and renewable energy surcharges, by rate class, for
3 each Kansas electric public utility since 2005;

4 (3) the return on investment experienced by shareholders of Kansas
5 investor-owned electric public utilities since 2005 and how such returns
6 compare to comparable vertically integrated investor-owned electric
7 utilities in other states;

8 (4) the primary causes for rate increases by Kansas electric public
9 utilities that have occurred since 2005;

10 (5) how utilities in states in the surrounding region have complied
11 with environmental regulations affecting their utility assets and whether
12 Kansas electric public utilities have employed similar strategies;

13 (6) the investments made by Kansas electric public utilities in electric
14 transmission infrastructure since 2005 and the retail rate impacts of such
15 investments;

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

22 (8) whether rate increases or the associated rising costs of Kansas
23 investor-owned electric public utilities impact the retail electric rates of
24 Kansas electric cooperatives and municipal utilities;

25 (9) whether Kansas electric public utilities are employing efficient
26 and low-cost capital structures;

27 (10) whether Kansas retail electric ratepayers have incurred costs
28 associated with the curtailment of non-dispatchable generation resources
29 and the amount of annual costs that have been incurred to pay non-
30 dispatchable wind and solar generation to not generate and deliver
31 electricity, including a determination of whether the commission has been
32 consistently and appropriately informed of such costs prior to approval of
33 incremental additions of non-dispatchable generation in Kansas and an
34 assessment of how such costs have been classified and communicated to
35 retail electric ratepayers; and

36 (11) whether retail electric rates in Kansas are competitive with the
37 surrounding region and if such rates are a material barrier to economic
38 development in Kansas;

39 (b) the effectiveness of current Kansas ratemaking practices,
40 including whether:

41 (1) Current ratemaking adequately attracts needed utility capital
42 investments and adequately discourages unnecessary capital investments
43 in Kansas;

1 (2) current ratemaking appropriately balance utility profits with the
2 public interest objectives of competitive electricity pricing and service
3 quality;

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

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

13 (5) any employee compensation structures, including incentive
14 compensation and pension benefits, of Kansas electric public utilities
15 conflict with customer interests;

16 (6) allowing Kansas investor-owned electric public utilities to recover
17 costs through frequently updated surcharges and riders without a
18 traditional ratemaking process has contributed to rising electricity prices
19 and whether such ratemaking treatments impact the rate of return provided
20 to utility shareholders, the financial risk associated with utility investments
21 and management incentives to mitigate costs;

22 (7) allowing Kansas electric cooperatives and municipal utilities to
23 set rates and recover costs without a traditional ratemaking process has
24 contributed to rising electricity prices; and

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

27 (c) options available to the state corporation commission and Kansas
28 legislature to begin reducing Kansas retail electricity prices to regionally-
29 competitive levels, including reviewing whether:

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

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

37 (3) competitive markets for retail electricity could benefit Kansas
38 consumers;

39 (4) further investments in energy efficiency and renewable energy
40 could benefit Kansas consumers;

41 (5) changes to the statutory service territories in Kansas would
42 benefit Kansas consumers;

43 (6) any other regulatory actions are available to the state corporation

1 commission to proactively stop continued rate increases and reduce retail
2 electric rates; and

3 (7) legislative enactments could materially address retail electric rate
4 escalation in Kansas; and

5 (d) other consequential energy issues materially affecting Kansas
6 electricity rates, including:

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

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

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

18 (4) whether Kansas consumers could benefit from improved access to
19 advanced energy solutions;

20 (5) the costs incurred by Kansas electric public utilities: (A) To hire
21 or employ lobbyists, including all benefits, travel and entertainment
22 expenses; (B) for all dues paid to any trade association based in the
23 Washington D.C. metropolitan area; (C) for all employee travel and
24 entertainment expenses to attend trade association events around the
25 country; and (D) whether the sum total of such costs directly benefit
26 Kansas ratepayers and whether such costs are recovered from Kansas
27 ratepayers;

28 (6) the costs incurred by Kansas electric public utilities to fund the
29 electric power research institute and Edison electric institute, including all
30 employee travel and entertainment expenses to attend events of such
31 entities and whether such costs directly benefit Kansas ratepayers and are
32 recovered from Kansas ratepayers;

33 (7) the amount of donations and contributions to political, charitable,
34 civic and social organizations made by Kansas electric public utilities, the
35 sum total of such costs, whether such costs directly benefit Kansas
36 ratepayers and whether such costs are recovered from Kansas ratepayers;

37 (8) whether commercial and industrial customers receive fair and
38 nondiscriminatory representation on Kansas electric cooperative boards of
39 directors;

40 (9) whether Kansas electric public utilities recover their costs of
41 serving customers from each customer class on the basis of cost causation;
42 and

43 (10) whether any utilities with publicly traded stock on an exchange

1 have issued any public statements about plans for future material
2 investment that have not yet been submitted to the commission for review.

3 Sec. 2. K.S.A. 66-101b is hereby amended to read as follows: 66-
4 101b. (a) Every electric public utility governed by this act shall be
5 required to furnish reasonably efficient and sufficient service and facilities
6 for the use of any and all products or services rendered, furnished,
7 supplied or produced by such electric public utility, to establish just and
8 reasonable rates, charges and exactions and to make just and reasonable
9 rules, classifications and regulations. Every unjust or unreasonably
10 discriminatory or unduly preferential rule, regulation, classification, rate,
11 charge or exaction is prohibited and is unlawful and void. The commission
12 shall have the power, after notice and hearing in accordance with the
13 provisions of the Kansas administrative procedure act, to require all
14 electric public utilities governed by this act to establish and maintain just
15 and reasonable rates when the same are reasonably necessary in order to
16 maintain reasonably sufficient and efficient service from such electric
17 public utilities.

18 (b) *In determining just and reasonable rates, the commission shall*
19 *evaluate the competitiveness of any proposed electric rate with those of*
20 *comparable public utilities in surrounding states. Every order approving*
21 *an increase in the base rates of an electric or natural gas public utility*
22 *shall include findings of fact regarding the impact of such rate increase on*
23 *the Kansas economy.*

24 Sec. 3. K.S.A. 66-117b is hereby amended to read as follows: 66-
25 117b. The state corporation commission shall report to the legislature in
26 accordance with this section on or before February 1 each year in regard to
27 any changed rate, joint rate, toll, charge or classification or schedule of
28 charges, or any rule or regulation or practice pertaining to the service or
29 rates of a public utility or common carrier approved by the state
30 corporation commission during the preceding fiscal year *and an*
31 *assessment of the regional competitiveness of electric and natural gas*
32 *rates, with such assessment to compare the rates in Kansas with Missouri,*
33 *Nebraska, Oklahoma, Colorado, Arkansas, Iowa, Texas and any*
34 *additional regional state that the commission deems appropriate. For each*
35 *approved rate change that resulted in a rate increase that exceeds the*
36 *consumer price index, the commission shall report the circumstances that*
37 *led to the approval of such rate increase. Such report shall contain*
38 *statistical and narrative information as the state corporation commission*
39 *deems appropriate. Such report need not include any information*
40 *regarding any public utility or common carrier that had less than*
41 *\$10,000,000 annual operating revenues in the preceding calendar year. The*
42 *report to the legislature under this section shall be made by the state*
43 *corporation commission either (a) by publishing such report on the internet*

1 and by ~~notifying~~ *providing* the legislature ~~that~~ *the website address where*
2 the report is available ~~and providing, as part of such notice, the uniform~~
3 ~~resource locator (URL) at which such report is available, or (b) by~~
4 ~~submitting copies of such report on CD-ROM or other electronically~~
5 ~~readable media to the legislature.~~

6 Sec. 4. K.S.A. 66-101b and 66-117b are hereby repealed.

7 Sec. 5. This act shall take effect and be in force from and after its
8 publication in the statute book.