

## HOUSE BILL No. 2484

By Committee on Energy and Utilities

2-8

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9 AN ACT concerning public utilities; relating to rate-making principles;  
10 amending K.S.A. 2006 Supp. 66-1239 and repealing the existing  
11 section.

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

14 Section 1. K.S.A. 2006 Supp. 66-1239 is hereby amended to read as  
15 follows: 66-1239. (a) As used in this section:

16 (1) "Commission" means the state corporation commission;

17 (2) "contract" means a public utility's contract for the purchase of  
18 electric power in the amount of at least \$5,000,000 annually;

19 (3) "generating facility" means any electric generating plant or im-  
20 provement to existing generation facilities;

21 (4) "stake" means a public utility's whole or fractional ownership  
22 share or leasehold or other proprietary interest in a generating facility or  
23 transmission facility;

24 (5) "public utility" has the meaning provided by K.S.A. 66-104, and  
25 amendments thereto; and

26 (6) "transmission facility" means: (A) Any existing line, and support-  
27 ing structures and equipment, being upgraded for the transfer of elec-  
28 tricity with an operating voltage of 34.5 kilovolts or more of electricity;  
29 or (B) any new line, and supporting structures and equipment, being  
30 constructed for the transfer of electricity with an operating voltage of 230  
31 kilovolts or more of electricity.

32 (b) (1) Prior to undertaking the construction of, or participation in,  
33 a transmission facility, a public utility may file with the commission a  
34 petition for a determination of the rate-making principles and treatment,  
35 as proposed by the public utility, that will apply to the recovery in whole-  
36 sale or retail rates of the cost to be incurred by the public utility to acquire  
37 such public utility's stake in the transmission facility during the expected  
38 useful life of the transmission facility.

39 (2) The commission shall issue an order setting forth the rate-making  
40 principles and treatment that will be applicable to the public utility's stake  
41 in the transmission facility in all rate-making proceedings on and after  
42 such time as the transmission facility is placed in service or the term of  
43 the contract commences.

- 1 (3) The commission in all proceedings in which the cost of the public  
2 utility's stake in the transmission facility is considered shall utilize the  
3 rate-making principles and treatment applicable to the transmission  
4 facility.
- 5 (4) If the commission fails to issue a determination within 180 days  
6 of the date a petition for a determination of rate-making principles and  
7 treatment is filed, the rate-making principles and treatment proposed by  
8 the petitioning public utility will be deemed to have been approved by  
9 the commission and shall be binding for rate-making purposes during the  
10 useful life of the transmission facility.
- 11 (5) If the commission does not have jurisdiction to set wholesale rates  
12 for use of the transmission facility the commission need not consider rate-  
13 making principles and treatment for wholesale rates for the transmission  
14 facility.
- 15 (c) (1) Prior to undertaking the construction of, or participation in,  
16 a generating facility or prior to entering into a new contract, a public  
17 utility may file with the commission a petition for a determination of the  
18 rate-making principles and treatment, as proposed by the public utility,  
19 that will apply to recovery in wholesale or retail rates of the cost to be  
20 incurred by the public utility to acquire such public utility's stake in the  
21 generating facility during the expected useful life of the generating facility  
22 or the recovery in rates of the contract during the term thereof.
- 23 (2) Any utility seeking a determination of rate-making principles and  
24 treatment under subsection (c)(1) shall as a part of its filing submit the  
25 following information: (A) A description of the public utility's conserva-  
26 tion measures; (B) a description of the public utility's demand side man-  
27 agement efforts; (C) the public utility's ten-year generation and load fore-  
28 casts; and (D) a description of all power supply alternatives considered  
29 to meet the public utility's load requirements.
- 30 (3) In considering the public utility's supply plan, the commission  
31 may consider if the public utility issued a request for proposal from a  
32 wide audience of participants willing and able to meet the needs identi-  
33 fied under the public utility's generating supply plan, and if the plan  
34 selected by the public utility is reasonable, reliable and efficient.
- 35 (4) The commission shall issue an order setting forth the rate-making  
36 principles and treatment that will be applicable to the public utility's stake  
37 in the generating facility or to the contract in all rate-making proceedings  
38 on and after such time as the generating facility is placed in service or  
39 the term of the contract commences. *To the extent permitted by law, such*  
40 *principles shall include consideration of the probability that federal en-*  
41 *vironmental regulations will significantly change the cost-benefit ratio of*  
42 *the proposed generation facility over its expected useful life and approval*  
43 *of the generation facility that best balances the expected least cost for*

1 *construction and operation, reliable generation over the expected useful*  
2 *life of the generation facility with the fewest anticipated cost-causing ex-*  
3 *ternalities and the greatest anticipated benefits to Kansas consumers and*  
4 *the state's economic and energy supply security.*

5 (5) The commission in all proceedings in which the cost of the public  
6 utility's stake in the generating facility or the cost of the purchased power  
7 under the contract is considered shall utilize the rate-making principles  
8 and treatment applicable to the generating facility or contract.

9 (6) If the commission fails to issue a determination within 180 days  
10 of the date a petition for a determination of rate-making principles and  
11 treatment is filed, the rate-making principles and treatment proposed by  
12 the petitioning public utility will be deemed to have been approved by  
13 the commission and shall be binding for rate-making purposes during the  
14 useful life of the generating facility or during the term of the contract.

15 (d) The public utility shall have one year from the effective date of  
16 the determination of the commission to notify the commission whether  
17 it will construct or participate in the construction of the generating or  
18 transmission facility or whether it will perform under terms of the  
19 contract.

20 (e) If the public utility notifies the commission within the one-year  
21 period that the public utility will not construct or participate in the con-  
22 struction of the generating or transmission facility or that it will not per-  
23 form under the terms of the contract, then the determination of rate-  
24 making principles pursuant to subsection (b) or (c) shall be of no further  
25 force or effect, shall have no precedential value in any subsequent pro-  
26 ceeding, and there shall be no adverse presumption applied in any future  
27 proceeding as a result of such notification.

28 (f) If the public utility notifies the commission under subsection (d)  
29 that it will construct or participate in a generating facility or purchase  
30 power contract and subsequently does not, it will be required to notify  
31 the commission immediately and file an alternative supply plan with the  
32 commission per subsection (c) within 90 days.

33 Sec. 2. K.S.A. 2006 Supp. 66-1239 is hereby repealed.

34 Sec. 3. This act shall take effect and be in force from and after its  
35 publication in the statute book.