

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR ROBERT V. TALKINGTON at
Chairperson

8:30 a.m./p.m. on Friday, March 16, 19⁸⁴ in room 254-E of the Capitol.

All members were present except:

all present
Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

None

HB 2927 AMENDMENTS

The meeting was called to order by Senator Talkington, Chairman, for the second day of considering proposed amendments on HB 2927.

HOUSE BILL 2927 AMENDMENTS

Senator Meyers moved to amend HB 2927 involving the time frame for utility siting permits in Line 110 by adding "66-101 et seq.;" seconded by Senator Morris. The amendment was adopted. (See Attachment 1.)

Senator Burke moved to delete and add language in Lines 147, 148 and 149 (See Attachment 1.); seconded by Senator Kerr. The amendment was adopted.

Senator Morris moved to strike the word "and" and insert the word "or" in Line 148 relating to the KCC finding a lack of prudence in plant acquisition, construction or operation; seconded by Senator Norvell. The amendment was not adopted. (See Attachment 2.)

Senator Hein moved to amend Sections 2 to 6 to not take away authority of the KCC to check excess capacity; to delete "and" and add "or" through the bill; to limit the process of declaring excess capacity to electric utilities, exempting common carriers, pipelines, telephone utilities and other utilities; seconded by Senator Thiessen. The amendment was adopted. (See Attachment 3.)

Senator Morris moved that if the commission determines that a utility has borrowed funds to pay dividends, costs of such payment shall not be included in

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 8:30 a.m. a.m./p.m. on March 16, 1984, 19

HOUSE BILL 2927 - AMENDMENTS (con't)

the rate base; seconded by Senator Norvell. The amendment was adopted. (Attachment 4)

Senator Kerr moved for a proposed KCC amendment involving Lines 169-170 to prevent monthly financial reports on every construction project by a utility; seconded by Senator Hayden. The amendment was adopted. (See Attachment 1.)

Senator Johnston moved to insert the word "means" in Line 194; seconded by Senator Hayden. The amendment was adopted. (See Attachment 1.)

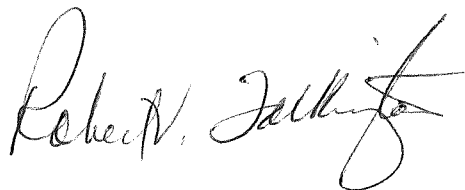
Senator Johnston moved for a clean up amendment to insert the revenue requirement requested by the utility (see Attachment 1); seconded by Senator Morris. The amendment was adopted.

Senator Meyers moved to reconsider the Committee's amendment from yesterday (that changed the word "and" back to present law language "or") deleting the word "or" from yesterday's amendment and adding the word "and" preferred by the House; seconded by Senator Norvell. The amendment was adopted.

Senator Thiessen moved for an amendment "for purposes of this section only;" seconded by Senator Norvell. The amendment was adopted. (See Attachment 5.)

Senator Morris moved to prevent a utility from disposing of a power plant to claim the utility no longer has excess capacity; seconded by Senator Norvell. The amendment was not adopted. (See Attachment 6.)

The meeting adjourned at 10:00 a.m.



Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

Friday, May 16

NAME	ADDRESS	ORGANIZATION	BILL NO.
Robert Filer	Wichita	Eagle Beach	
Brian Nelson	SOR	KCC	
Don Low	"	"	2927
Del. Hahn	Topeka	HNS	
Jim Sullinger		KC STAR	2927
Ray D. Shenkel	Shawnee	KEPL	2927
M. Hawver	Topeka	Can-Vol	
Sophy George	"	Sen. Inclusion	2927
Bill Goring	"	S.W. BELL	2927
D. WAYNE ZIMMERMAN	TOPEKA	THE ELECTRIC CO'S ASSOC. OF KS.	HB 2927
JERRY Leonard	"	KG & E	"
JAMES HAINES	WICHITA	KG & E	2927
ED SCHAUB	TOPEKA	SWBT	2927
JEFF RUSSELL	TOPEKA	UNITED TEL. CO'S	2927
Jan Johnson	Topeka	Budget Division	"
Lynn Matheson	Topeka	Budget Division	2927
DICK COMPTON	HAYS	MIDWEST ENERGY	2927
Norm Daniels	Topeka	Senate	2927
Rick Kready	"	KPL/Gas Service	"
Lon Stanton	"	Northern Natural Gas	"
BILL PERDIE	"	KPL/GAS SERVICE	"
BOB PHILLIP	"	KCC	"
Shaw	"	"	"

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1984

HOUSE BILL No. 2927

By Representatives Fox, Adam, Aylward, Baker, Barr, Blumenthal, Braden, Branson, Charlton, Cloud, Cribbs, Ediger, Francisco, L. Fry, Goossen, Grotewiel, Helgerson, Hensley, Hoy, L. Johnson, Knopp, Leach, Lowther, Luzzati, R.H. Miller, Murphy, K. Ott, Patrick, Roe, Rogers, Rolfs, Roper, Runnels, Schweiker, Shelor, Smith, Solbach, Spaniol, Sugh-rue, Turnquist, Vancrum, Wagnon, Darrel Webb, Whiteman, Wilbert and Wisdom

2-8

0028 AN ACT concerning public utilities; relating to the valuation of
0029 property for ratemaking purposes; amending K.S.A. 66-128
0030 and repealing the existing section.

0031 *Be it enacted by the Legislature of the State of Kansas:*

0032 Section 1. K.S.A. 66-128 is hereby amended to read as fol-
0033 lows: 66-128. ~~Said~~ *The state corporation* commission shall ~~have~~
0034 ~~the power and it shall be its duty to ascertain~~ *determine* the
0035 reasonable value of all or whatever fraction or percentage of the
0036 property of any common carrier or public utility; ~~or whatever~~
0037 ~~fraction or percentage of an electric generation facility property~~
0038 ~~of any public utility which has constructed the facility without~~
0039 ~~obtaining an advance permit under K.S.A. 66-1,150 et seq. and~~
0040 ~~amendments thereto;~~ governed by the provisions of this act
0041 ~~which property is used or~~ ~~and~~ required to be used in ~~its the~~
0042 ~~carrier's or utility's~~ its services to the public within the state of
0043 Kansas, whenever ~~it the~~ commission deems the ascertainment of
0044 such value necessary in order to enable the commission to fix fair
0045 and reasonable rates, joint rates, tolls and charges; ~~and~~. In mak-
0046 ing such valuations ~~they the~~ commission may avail ~~themselves~~
00 ~~itself~~ of any reports, records or other things available to ~~them the~~
0048 commission in the office of any national, state or municipal

OR

Atch. 1

0050 officer or board. For the purposes of this act, property of any
 0051 public utility which has not been completed and dedicated to
 0052 commercial service shall not be deemed to be used ~~or and~~
 0053 required to be used in ~~said the~~ public utility's service to the
 0054 public, except that, any property of a public utility, the con-
 0055 struction of which will be commenced and completed in one ~~(1)~~
 0056 year or less, may be deemed to be completed and dedicated to
 0057 commercial service. ~~The commission may require a common~~
 0058 ~~carrier of public utility to defer inclusion of all or any portion of~~
 0059 ~~the reasonable value as so determined and permit~~ the phase-in of
 0060 such value over any period of time and in such increments as it
 0061 determines to be appropriate. If the commission requires a
 0062 ~~common carrier of public utility to defer the inclusion of any~~
 0063 portion of such reasonable value and orders a phase-in of such
 0064 value, it may exclude [any or all of] the carrying or finance costs
 0065 incurred after the date of its determination and throughout the
 0066 period of any deferral or phase-in as so ordered.

OR

may require

of property determined not currently used or required to be used

0066 New Sec. 2. The state corporation commission, in determin-
 0067 ing the reasonable value of property under K.S.A. 66-128, and
 0068 amendments thereto of a public utility which has constructed an
 0069 electric generating facility without obtaining an advance permit
 0070 under K.S.A. 66-1,150 ~~et seq.~~ and amendments thereto, shall
 0071 have the power to evaluate the efficiency or prudence of acqui-
 0072 sition, construction and ~~operation~~ or operating practices of that
 0073 utility. In the event the state corporation commission determines
 0074 that a portion of the costs of acquisition, construction or ~~opera-~~
 0075 ~~tion operating~~ were incurred due in whole or in part to a lack of
 0076 efficiency or prudence, or were incurred in the acquisition or
 0077 construction of excess electric generating capacity, it shall have
 0078 the power and authority to exclude all or a portion of those costs
 0079 from ~~such reasonable value as so determined.~~

operation

the revenue requirement requested by the utility

0080 New Sec. 3. The state corporation commission in determin-
 0081 ing the reasonable value of property under K.S.A. 66-128 and
 0082 amendments thereto of a public utility which has constructed an
 0083 electric generating facility without obtaining an advance permit
 0084 under K.S.A. 66-1,150 ~~et seq.~~ and amendments thereto, shall also
 0085 determine whether the public utility has "excess electric gen-

0086 erating capacity." "Excess electric generating capacity" for pur-
0087 poses of this act means any amount

0088 For the purpose of this act, "excess capacity" means any
0089 capacity in excess of the amount reasonably necessary used ~~and~~ or
0090 required to be used to provide adequate and reliable service ~~[to~~
0091 ~~the public within the state of Kansas]~~ as determined by the
0092 commission. The commission may in its discretion prohibit or
0093 reduce the return on costs which were incurred in constructing,
0094 maintaining or operating excess electric generating capacity.

0095 New Sec. 4 Sec. 3. The state corporation commission may at
0096 any time and in its sole discretion, whether or not the a facility is
0097 still under construction, initiate on its own motion a proceeding
0098 with respect to any proposed electric generating facility which
0099 was not required to obtain an advance permit under K.S.A.
0100 ~~66-1,150 et seq.~~ and amendments thereto, to determine in ad-
0101 vance whether the costs of such facility were reasonably, or
0102 prudently or necessarily incurred under section 2, or whether all
0103 or a portion of the costs of such facility are or shall be incurred in
0104 producing excess electric generating capacity under section 3.
0105 The proceeding shall be commenced by the commission giving
0106 30 days' written notice of the setting of the hearing of such
0107 proceeding to the public utility or utilities involved, and no other
0108 motion shall be required, but the procedure, hearing and appeal
0109 rights shall otherwise be as specified in K.S.A. ~~66-1,158 through~~
0110 ~~66-1,160,~~ and amendments thereto.

66-101 et seq.

0111 New Sec. 5. The state corporation commission in conjune-
0112 tion with or separate from other proceedings may at any time in
0113 its sole discretion, whether or not the facility is still under
0114 construction, initiate on its own motion a proceeding with re-
0115 spect to any proposed electric generating facility which was not
0116 required to obtain an advance permit under K.S.A. 66-1,150 et
0117 seq. and amendments thereto, to determine in advance if, in the
0118 event the public utility completes construction of the facility: (1)
0119 Any portion of the costs of construction of such facility (including
0120 carrying costs of funds borrowed to construct the facility) are to
0 be excluded from the reasonable value of the property of the
A22 public utility used in serving the public in Kansas, under section

0123 2; (2) any portion of such costs is to be deferred and phased into
 0124 the reasonable value of such public utility property under sec-
 0125 tion 6; or (3) any future carrying costs or finance charges are to be
 0126 excluded or disallowed as provided under section 7. The pro-
 0127 ceeding shall be commenced by the commission giving 30 days'
 0128 written notice of the setting of the hearing to the public utility or
 0129 utilities involved, on its own motion; and no other notice shall be
 0130 required; but the procedure and hearing and appeal rights shall
 0131 otherwise be as specified in K.S.A. 66-1,158 through 66-1,160e,
 0132 and amendments thereto.

0133 New Sec. 6. In determining the reasonable value of property
 0134 of a public utility which has constructed an electric generating
 0135 facility without obtaining an advance permit under K.S.A. 66-
 0136 1,150 *et seq.* and amendments thereto, the state corporation
 0137 commission, if it determines that a portion of costs incurred in
 0138 constructing or operating an electric generating facility were
 0139 incurred due to lack of prudence in plant acquisition, construc-
 0140 tion or operation or inefficient operation; or if it determines that
 0141 the operation of such facility will result in excess electric gen-
 0142 erating capacity, shall have the power and authority to require a
 0143 public utility to defer and phase such costs into such reasonable
 0144 value over not less than 10 nor more than 15 years in substan-
 0145 tially equal increments.

0146 New Sec. 7 Sec. 4. In the event the commission finds that a
 0147 portion of costs were incurred due to lack of prudence in plant
 0148 acquisition, construction or operation/ or and were incurred to
 0149 build a facility which in whole or in part represents excess
 0150 electric generating capacity as defined in section 3, the commis-
 0151 sion shall exclude that portion of the carrying or finance charges
 0152 incurred after the date of its finding; or throughout the period of
 0153 any deferral or phase in of costs required under section 6; and
 0154 thereafter, to finance or refinance the portion of the costs of such
 0155 facility so incurred, and no part of such the carrying or finance
 0156 costs excluded shall ever be or become part of the reasonable
 0157 value of public utility property so used or required to be used.
 0158 The commission shall also also shall not authorize the recovery
 0159 as operating expense or in any other manner of the carrying or

attributable to investment in excess capacity which was

capacity planning

acquire or construct

0. finance costs associated with the costs of such facility so excluded and the revenue requirements of the public utility shall not be adjusted due to such carrying or finance costs so excluded.

0163 Nothing in this act shall limit the commission's authority to adjust revenue requirements of any ~~common carrier or~~ public utility if the commission determines the revenue requirement requested ~~is either a return of or a return on cost which~~ results from inefficiency or a lack of prudence.

common carrier or

in whole or in part

0168 [New Sec. 5. Any common carrier or public utility subject to the provisions of this act which constructs a facility shall make and send monthly financial reports to the state corporation commission. Such reports shall include the following information, as of the date of the report, the: (a) Actual costs incurred; (b) total estimated cost of the facility; (c) percentage of the facility which is actually completed; (d) estimated date of first commercial operation; and (e) any other information required by the commission. Such reports shall be prepared and certified in the manner and form required by the commission.]

an electric generating facility and was not required to obtain an advance permit under K.S.A. 66-1,159 et seq.

(e) copies of informational filings provided federal agencies having regulatory authority over such construction; and (f)

~~0178 [New Sec. 5 6. (a) If any portion of an electric generating facility is determined to be excess capacity and if the facility is a nuclear fission power plant, the state corporation commission shall determine whether (1) there has been developed and approved by the United States government through its authorized agency, a proven technology or means for the disposal of high-level nuclear waste and (2) such technology or means for disposal of such waste [which] is available for use at or by the plant. (b) If the commission finds that no such technology for disposal exists, it shall be presumed that the costs of acquisition, construction or operation of the facility were incurred due to a lack of prudence and the commission shall not include such costs in the reasonable value of the public utility property.~~

Nothing in this section shall limit the commission's authority to require filing of data in any format by any regulated utility or common carrier the commission deems necessary to accomplish its regulatory duties.

~~0191 [(b) When used in this section, "technology or means for the disposal of high-level nuclear waste" means a method for the permanent and terminal disposition [includes but is not limited to temporary on-site storage] of high-level nuclear waste. Such disposition shall not preclude the possibility of [or] an approved process for the retrieval of such waste.]~~

means

197 lew Sec. 8 5 [7]. The provisions of this act are declared to be
198 severable, and if any section, sentence, clause or phrase of this
199 act shall for any reason be held to be invalid or unconstitutional,
200 the validity or application of the other provisions of the act shall
201 not be affected, it being the intent of the legislature that the act
202 shall stand notwithstanding the invalidity of any part.

203 Sec. 9 6 [8]. K.S.A. 66-128 is hereby repealed.

204 Sec. 10 7 [9]. This act shall take effect and be in force from
205 and after its publication in the Kansas register.

Proposed Amendment to House Bill No. 2927

(As Amended by House Committee of the Whole)

On page 4, in line 148, by striking "and" and inserting "or"

HOUSE BILL No. 2927

By Representatives Fox, Adam, Aylward, Baker, Barr, Blumenthal, Braden, Branson, Charlton, Cloud, Cribbs, Ediger, Francisco, L. Fry, Goossen, Grotewiel, Helgerson, Hensley, Hoy, L. Johnson, Knopp, Leach, Lowther, Luzzati, R.H. Miller, Murphy, K. Ott, Patrick, Roe, Rogers, Rolfs, Roper, Runnels, Schweiker, Shelor, Smith, Solbach, Spaniol, Sugh-rue, Turnquist, Vancrum, Wagon, Darrel Webb, Whiteman, Wilbert and Wisdom

2-8

0028 AN ACT concerning public utilities; relating to the valuation of
0029 property for ratemaking purposes; amending K.S.A. 66-128
0030 and repealing the existing section.

0031 *Be it enacted by the Legislature of the State of Kansas:*

0032 Section 1. K.S.A. 66-128 is hereby amended to read as fol-
0033 lows: 66-128. ~~Said~~ *The state corporation commission shall have*
0034 ~~the power and it shall be its duty to ascertain~~ *determine* the
0035 reasonable value of all or whatever fraction or percentage of the
0036 property of any common carrier or public utility; ~~or whatever~~
0037 ~~fraction or percentage of an electric generation facility property~~
0038 ~~of any public utility which has constructed the facility without~~
0039 ~~obtaining an advance permit under K.S.A. 66-1,159 et seq. and~~
0040 ~~amendments thereto;~~ governed by the provisions of this act
0041 ~~which property is used or~~ ~~is~~ ~~required to be used in its~~ ~~the~~
0042 ~~carrier's or utility's~~ its services to the public within the state of
0043 Kansas, whenever ~~it~~ ~~the~~ ~~commission~~ deems the ascertainment of
0044 such value necessary in order to enable the commission to fix fair
0045 and reasonable rates, joint rates, tolls and charges; and. In mak-
0046 ing such valuations ~~they~~ ~~the~~ ~~commission~~ may avail themselves
0047 ~~itself~~ of any reports, records or other things available to ~~them~~ ~~the~~
0048 ~~commission~~ in the office of any national, state or municipal

[OR

or board. For the purposes of this act, property of any public utility which has not been completed and dedicated to commercial service shall not be deemed to be used ~~or~~ ^{or} and required to be used in said the public utility's service to the public, except that, any property of a public utility, the construction of which will be commenced and completed in one (1) year or less, may be deemed to be completed and dedicated to commercial service. ~~The commission may require a certificate of public utility to defer inclusion of all or any portion of reasonable value as so determined and permit the phase-in of such value over any period of time and in such increments as it determines to be appropriate. If the commission requires a certificate of public utility to defer the inclusion of any portion of such reasonable value and orders a phase-in of such value, it may exclude [any or all of] the carrying or finance costs incurred after the date of its determination and throughout the period of any deferral or phase-in as so ordered.~~

[NEW SEC. 2

[OF AN ELECTRIC GENERATING FACILITY

~~Law Sec. 2.3 The state corporation commission, in determining the reasonable value of property under K.S.A. 66-128, and inclusions thereto of a public utility which has constructed an electric generating facility without obtaining an advance permit under K.S.A. 66-1-159 et seq. and amendments thereto, shall have the power to evaluate the efficiency or prudence of acquisition, construction and operation or operating practices of that utility. In the event the state corporation commission determines that a portion of the costs of acquisition, construction or operation or operating were incurred due in whole or in part to a lack of efficiency or prudence, or were incurred in the acquisition or construction of excess electric generating capacity, it shall have the power and authority to exclude all or a portion of those costs of such reasonable value as so determined.~~

[ELECTRIC GENERATING FACILITY

[ELECTRIC GENERATING FACILITY

~~Law Sec. 3. The state corporation commission in determining the reasonable value of property under K.S.A. 66-128 and inclusions thereto of a public utility which has constructed an electric generating facility without obtaining an advance permit under K.S.A. 66-1-159 et seq. and amendments thereto, shall also determine whether the public utility has "excess electric gen-~~

0086 erating capacity." "Excess electric generating capacity" for pur-
0087 poses of this act means any amount

0088 For the purpose of this act, "excess capacity" means any
0089 capacity in excess of the amount reasonably necessary used and
0090 required to be used to provide adequate and reliable service (to
0091 the public within the state of Kansas) as determined by the
0092 commission. The commission may in its discretion prohibit or
0093 reduce the return on costs which were incurred in constructing,
0094 maintaining or operating excess electric generating capacity.

electric generating facility

0095 New Sec. 4 Sec. 3. The state corporation commission may at
0096 any time and in its sole discretion, whether or not the facility is
0097 still under construction, initiate on its own motion a proceeding
0098 with respect to any proposed electric generating facility which
0099 was not required to obtain an advance permit under K.S.A.
0100 66-1,150 et seq. and amendments thereto; to determine in ad-
0101 vance whether the costs of such facility were reasonable; or
0102 prudently or necessarily incurred under section 2, or whether all
0103 or a portion of the costs of such facility are or shall be incurred in

the electric generating

0104 producing excess electric generating capacity under section 3.
0105 The proceeding shall be commenced by the commission giving
0106 30 days' written notice of the setting of the hearing of such
0107 proceeding to the public utility or utilities involved, and no other
0108 motion shall be required, but the procedure, hearing and appeal
0109 rights shall otherwise be as specified in K.S.A. 66-1,158 through
0110 66-1,169c, and amendments thereto.

electric generating facility

under section 2.

0111 New Sec. 5. The state corporation commission in conjunc-
0112 tion with or separate from other proceedings may at any time in
0113 its sole discretion, whether or not the facility is still under
0114 construction, initiate on its own motion a proceeding with re-
0115 spect to any proposed electric generating facility which was not
0116 required to obtain an advance permit under K.S.A. 66-1,150 et
0117 seq. and amendments thereto; to determine in advance if, in the
0118 event the public utility completes construction of the facility: (1)
0119 Any portion of the costs of construction of such facility (including
0120 carrying costs of funds borrowed to construct the facility) are to
0121 be excluded from the reasonable value of the property of the
0122 public utility used in serving the public in Kansas; under section

0123 2; (2) any portion of such costs is to be deferred and phased into
 0124 the reasonable value of such public utility property under sec-
 0125 tion 6; or (3) any future carrying costs or finance charges are to be
 0126 excluded or disallowed as provided under section 7. The pro-
 0127 ceeding shall be commenced by the commission giving 30 days'
 0128 written notice of the setting of the hearing to the public utility or
 0129 utilities involved; on its own motion; and no other notice shall be
 0130 required; but the procedure and hearing and appeal rights shall
 0131 otherwise be as specified in K.S.A. 66-1,158 through 66-1,160e;
 0132 and amendments thereto.

0133 New Sec. 6. In determining the reasonable value of property
 0134 of a public utility which has constructed an electric generating
 0135 facility without obtaining an advance permit under K.S.A. 66-
 0136 1,150 *et seq.* and amendments thereto; the state corporation
 0137 commission; if it determines that a portion of costs incurred in
 0138 constructing or operating an electric generating facility were
 0139 incurred due to lack of prudence in plant acquisition; construc-
 0140 tion or operation or inefficient operation; or if it determines that
 0141 the operation of such facility will result in excess electric gen-
 0142 erating capacity; shall have the power and authority to require a
 0143 public utility to defer and phase such costs into such reasonable
 0144 value over not less than 10 nor more than 15 years in substan-
 0145 tially equal increments.

0146 New Sec. 7 Sec. ~~4~~⁵ In the event the commission finds that a
 0147 portion of costs were incurred due to lack of prudence in ~~plant~~
 0148 acquisition, construction or operation ~~or~~ and were incurred to
 0149 build a facility which in whole or in part represents excess
 0150 electric generating capacity as defined in section 3, the commis-
 0151 sion shall exclude that portion of the carrying or finance charges
 0152 incurred after the date of its finding; or throughout the period of
 0153 any deferral or phase in of costs required under section 6; and
 0154 thereafter; to finance or refinance the portion of the costs of such
 0155 facility so incurred, and no part of such the carrying or finance
 0156 costs excluded shall ever be or become part of the reasonable
 0157 value of public utility property so used or required to be used.
 0158 The commission shall also also shall not authorize the recovery
 0159 as operating expense or in any other manner of the carrying or

electric generating facility

as defined in section 2,

0160 finance costs associated with the costs of such facility so ex-
0161 eluded and the revenue requirements of the public utility shall
0162 not be adjusted due to such carrying or finance costs so excluded.

0163 Nothing in this act shall limit the commission's authority to
0164 adjust revenue requirements of any ~~common carrier or~~ public
0165 utility if the commission determines the revenue requirement
0166 requested is either a return of or a return on ~~cost~~ which results
0167 from inefficiency or a lack of prudence.

electric generating facility
, as defined in section 2

0168 [New Sec. 5-6.6 Any common carrier or public utility subject to
0169 the provisions of this act which constructs a facility shall make
0170 and send monthly financial reports to the state corporation com-
0171 mission. Such reports shall include the following information, as
0172 of the date of the report, the: (a) Actual costs incurred; (b) total
0173 estimated cost of the facility; (c) percentage of the facility which
0174 is actually completed; (d) estimated date of first commercial
0175 operation; and (e) any other information required by the com-
0176 mission. Such reports shall be prepared and certified in the
0177 manner and form required by the commission.

an electric generating

0178 [New Sec. 5-6.7 (a) If any portion of an electric generating
0179 facility is determined to be excess capacity and if the facility is a
0180 nuclear fission power plant, the state corporation commission
0181 shall determine whether (1) there has been *developed and ap-*
0182 *proved* by the United States government through its authorized
0183 agency, a proven technology or means for the disposal of high-
0184 level nuclear waste *and (2) such technology or means for dis-*
0185 *posal of such waste* [which] is available for use at or by the plant.

0186 [If the commission finds that no such technology for disposal
0187 exists, it shall be presumed that the costs of acquisition, con-
0188 struction or operation of the facility were incurred due to a lack
0189 of prudence and the commission shall not include such costs in
0190 the reasonable value of the public utility property.

0191 ((b) When used in this section, "technology or means for the
0192 disposal of high-level nuclear waste" *means a method for the*
0193 *permanent and terminal disposition* [includes but is not limited
0194 to temporary on-site storage] of high-level nuclear waste. *Such*
0195 *disposition shall not preclude the possibility of [or] an approved*
0196 process for the retrieval of such waste.]

197. New Sec. 85 [7].⁸ The provisions of this act are declared to be
198 severable, and if any section, sentence, clause or phrase of this
199 act shall for any reason be held to be invalid or unconstitutional,
200 the validity or application of the other provisions of the act shall
201 not be affected, it being the intent of the legislature that the act
202 shall stand notwithstanding the invalidity of any part.

203 Sec. 96 [8].⁹ K.S.A. 66-128 is hereby repealed.

204 Sec. 107 [9].¹⁰ This act shall take effect and be in force from
205 and after its publication in the Kansas register.

New Sec. 7. Nothing in sections 2 to 6, inclusive, of this act shall be construed to limit the authority of the state corporation commission to review and evaluate the efficiency or prudence of any actions or operating practices of any public utility or common carrier for the purpose of establishing fair and reasonable rates, joint rates, tolls and charges.

Proposed Amendment to House Bill No. 2927

(As Amended by House Committee of the Whole)

On page 5, following line 167, by inserting a new paragraph as follows:

"If the commission determines that a public utility has borrowed any amount in order to pay dividends, the commission may exclude from allowable operating costs such amount and the costs of such borrowing, including principal, interest and any other costs associated therewith. Any such amounts shall not constitute any part of the reasonable value of the property of the public utility."

In the title, in line 28, by striking "relating to the"; in line 29, after the semicolon, by inserting "operating costs;"

Attachment 5
Friday 3-16-84

HB 2927

Rec

S. Thiessen

SECTION 4

AMEND LINES 146-157 AS RECOMMENDED BY THE KCC AS FOLLOWS:

In the event the commission finds that a portion of costs were incurred due to lack of prudence in capacity planning and were incurred to acquire or construct a facility which in whole or in part represents excess capacity, the commission shall exclude that portion of the carrying or finance charges attributable to investment in excess capacity which was incurred after the date of its finding and no part of the carrying or finance costs excluded shall ever be or become part of the reasonable value of public utility property so used or required to be used.

ADD NEW LANGUAGE TO PREVENT MANDATORY EXCLUSION OF CARRYING OR FINANCE CHARGES ON CAPACITY EXCLUDED FROM RATE BASE, WHEN THE KCC ISSUED THE UTILITY A SITING PERMIT FOR THE CONSTRUCTION:

A finding of lack of prudence in capacity planning for a facility which in whole or in part represents excess capacity shall not be made by the commission when a siting permit authorizing the construction of the facility has been issued under K.S.A. 66-1,162.

Atch. 5

Proposed Amendment to House Bill No. 2927

(As Amended by House Committee of the Whole)

On page 6, preceding line 197, by inserting a new section as follows:

"New Sec. 7. When a public utility disposes of, sells or retires from service any facility, the state corporation commission may evaluate the efficiency or prudence of such disposition, sale or retirement from service. If the commission finds that any such disposition, sale or retirement from service of a facility was inefficient or imprudent, or resulted in an unreasonable reduction of electrical generating capacity, the commission may preclude the otherwise resulting rate increase.";

By renumbering sections 7, 8 and 9, as sections 8, 9 and 10";

In the title, in line 28, by striking "relating to the"; in line 29, after the semicolon, by inserting "rates;"