

SENATE BILL No. 81

By Committee on Utilities

1-27

1 AN ACT concerning public utilities; relating to the state corporation
2 commission; prohibiting large facilities receiving certain tariffs or
3 failing to meet workforce and electric demand requirements from
4 qualifying for economic development electric rates; amending K.S.A.
5 2024 Supp. 66-101j and repealing the existing section.

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

8 Section 1. K.S.A. 2024 Supp. 66-101j is hereby amended to read as
9 follows: 66-101j. (a) Notwithstanding the provisions of K.S.A. 66-101b or
10 66-109, and amendments thereto, the commission shall authorize an
11 electric public utility to implement economic development rate schedules
12 that provide discounts from otherwise applicable standard rates for electric
13 service for new or expanded facilities of industrial or commercial
14 customers that are not in the business of selling or providing goods or
15 services directly to the general public. To be eligible for such discounts,
16 such customer shall:

17 (1) Have incentives from one or more local, regional, state or federal
18 economic development agencies to locate such new or expanded facilities
19 in the electric public utility's certified service territory;

20 (2) qualify for service under the electric public utility's non-
21 residential and non-lighting rate schedules for such new or expanded
22 facility; and

23 (3) not receive the discount together with service provided by the
24 electric public utility pursuant to any other special contract agreements.

25 (b) The discount authorized by this section shall only be applicable to
26 new facilities or expanded facilities that have:

27 (1) A peak demand that is reasonably projected to be at least 200
28 kilowatts within two years of the date the customer first receives service
29 under the discounted rate and is not the result of shifting existing demand
30 from other facilities of the customer in the electric public utility's certified
31 service territory and:

32 (A) Has an annual load factor that is reasonably projected to equal or
33 exceed the electric public utility's annual system load factor within two
34 years of the date the customer first receives service under the discounted
35 rate; or

36 (B) otherwise warrants a discounted rate based on any of the

1 following factors:

2 (i) The number of new permanent full-time jobs created or the
3 percentage increase in existing permanent full-time jobs created;

4 (ii) the level of capital investment;

5 (iii) additional off-peak usage;

6 (iv) curtailable or interruptible load;

7 (v) new industry or technology; or

8 (vi) competition with existing industrial customers;

9 (2) a peak demand that is reasonably projected to be at least 300
10 kilowatts within two years of the date the customer first receives service
11 under the discounted rate and is not the result of shifting existing demand
12 from other facilities of the customer in the electric public utility's certified
13 service territory and:

14 (A) An annual load factor that is reasonably projected to be at least
15 55% within two years of the date the customer first receives service under
16 the discounted rate; and

17 (B) the facility shall, once first achieved, maintain the peak demand
18 and load factor for the remaining duration of the discounted rate; or

19 (3) a peak demand that is reasonably projected to be at least 25
20 megawatts within two years of the date the customer first receives service
21 under the discounted rate and is not the result of shifting existing demand
22 from other facilities of the customer in the electric public utility's certified
23 service territory and:

24 (A) An annual load factor that is reasonably projected to be at least
25 55% within two years of the date the customer first receives service under
26 the discounted rate; and

27 (B) the facility shall, once first achieved, maintain the peak demand
28 and load factor for the remaining duration of the discounted rate.

29 (c) *On and after January 1, 2025, a new facility shall not be eligible
30 for a discount pursuant to this section, if such facility:*

31 (1) *Has a peak demand that is reasonably projected to be 40
32 megawatts or above within the first two years of the date such facility first
33 receives service; and*

34 (2) (A) *is reasonably projected to have a full-time work force of less
35 than 200 employees within the first two years of the date such facility first
36 receives service; or*

37 (B) *is not receiving service pursuant to a data center or large load
38 tariff.*

39 (d) The discount authorized by this section shall be determined by
40 reducing otherwise applicable charges associated with the rate schedule
41 applicable to the new or expanded existing facility by a fixed percentage
42 for each year of service under the discount for a period of up to:

43 (1) Five years to facilities that qualify pursuant to subsection (b)(1) or

1 (b)(2); and

2 (2) 10 years to facilities that qualify pursuant to subsection (b)(3).

3 ~~(d)(e)~~ (1) For discounts to facilities that qualify pursuant to
4 subsection (b)(1), the average of the annual discount percentages shall not
5 exceed 20%, except that such discounts may be between 5% to 30% in any
6 year of such five-year period.

7 (2) For discounts to facilities that qualify pursuant to subsection (b)
8 (2), the average of the annual discount percentages shall not exceed 40%,
9 except that such discounts may be between 20% and 50% in any year of
10 such five-year period.

11 (3) For discounts to facilities that qualify pursuant to subsection (b)
12 (3), the average of the annual discount percentages shall not exceed:

13 (A) For the first five years of the discount period, 40%, except that
14 such discounts may be between 20% to 50% in any year of such five-year
15 period; and

16 (B) for the final five years of the discount period, 20%, except that
17 such discounts may be between 10% and 30% in any year of such five-
18 year period.

19 ~~(e)(f)~~ (1) Except as provided in paragraph (2), on and after July 1, 2024,
20 the difference in revenues generated by applying the discounted rates
21 authorized pursuant to this section and the revenues that would have been
22 generated without such discounts shall not be imputed into the electric
23 public utility's revenue requirement.

24 (2) Any reduction in revenue resulting from any discount provided
25 pursuant to this section that was tracked by the public utility and deferred
26 to a regulatory asset prior to July 1, 2024, shall be recoverable in any
27 general rate proceeding initiated on or after July 1, 2024, through an equal
28 percentage adjustment to the revenue requirement responsibility for all
29 customer classes of the public utility, including the customer classes that
30 include customers qualifying for discounts pursuant to this section.

31 ~~(f)(g)~~ The provisions of this section shall not apply to rates for service
32 provided to customers under contract rates approved by the commission
33 pursuant to K.S.A. 2024 Supp. 66-101i, and amendments thereto, or the
34 commission's general ratemaking authority according to custom and
35 practice of the commission in place prior to the effective date of this
36 section.

37 ~~(g)(h)~~ Starting in January 2023, the commission shall biennially
38 provide a status report to the legislature about any discounts from tariffed
39 rates authorized pursuant to this section. Such report shall include the:

40 (1) Number of entities with such discounts;

41 (2) number of entities with increased load;

42 (3) number of entities with decreased load;

43 (4) aggregate load and change in aggregate load on an annual basis;

- 1 (5) total subsidy and the subsidy for each individual contract;
- 2 (6) annual and cumulative rate impact on non-contract rate
- 3 customers; and
- 4 (7) estimated economic development impact of entities with
- 5 discounted rates that occurred as a result of such discounts through an
- 6 evaluation of the annual:
 - 7 (A) Total employment for such entities;
 - 8 (B) change in employment for such entities; and
 - 9 (C) tax revenue generated by such entities.

10 ~~(h)~~(i) An electric public utility shall be authorized to only implement
11 discounted rates for facilities that qualify for such discounted rates
12 pursuant to subsection (b)(3) until December 31, 2030, except that, upon
13 application by such public utility, the commission may authorize the public
14 utility to continue to implement such discounted rates for facilities that
15 qualify for such discounted rates pursuant to subsection (b)(3) until
16 December 31, 2036. Any such application shall be filed with the
17 commission on or before December 31, 2028. The commission shall issue
18 a determination on an application filed pursuant to this subsection within
19 240 days of the date that such application is filed. If requested by the
20 public utility, an intervenor in the application docket or commission staff,
21 the commission shall hold a hearing on such application. When
22 considering and making a determination upon such application, the
23 commission may consider factors that the commission deems just and
24 reasonable and condition the commission's determination on any factors
25 that are relevant to the discounted rates for facilities that qualify for such
26 discounted rates pursuant to subsection (b)(3). If the commission denies
27 the public utility's application, such denial shall only act to prohibit the
28 public utility from implementing discounted rates for facilities that qualify
29 for such discounted rates pursuant to subsection (b)(3) after December 31,
30 2030, and shall not otherwise affect or terminate any discounted rates
31 implemented by the public utility pursuant to this section or any regulatory
32 or ratemaking treatment of such discounted rates.

33 ~~(i)~~—For the purposes of (j) *As used in this section:*

34 (1) "Electric public utility" means the same as defined in K.S.A. 66-
35 101a, and amendments thereto, but does not include any such utility that is
36 a cooperative as defined in K.S.A. 66-104d, and amendments thereto, or
37 owned by one or more such cooperatives;

38 (2) "expanded facility" means a separately metered facility of the
39 customer, unless the utility determines that the additional costs of separate
40 metering of such facility would exceed the associated benefits or that it
41 would be difficult or impractical to install or read the meter, that has not
42 received service in the electric utility's certified service territory in the
43 previous 12 months; and

1 (3) "new facility" means a building of the customer that has not
2 received electric service in the electric utility's certified service territory in
3 the previous 12 months.

4 Sec. 2. K.S.A. 2024 Supp. 66-101j is hereby repealed.

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