

Senate Substitute for HOUSE BILL No. 2482

By Committee on Utilities

3-21

1 AN ACT creating the energy efficiency investment act.

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

4 Section 1. (a) As used in this section:

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

6 (2) "demand response" means measures that decrease peak demand or
7 shift demand to off-peak periods of time;

8 (3) "demand-side program" means any program conducted by: (A)
9 An electric utility to reduce the net consumption of electricity by a retail
10 electric customer; or (B) a natural gas utility to reduce the net consumption
11 of natural gas by a retail gas customer.

12 "Demand-side program" may include, but shall not be limited to: (A)
13 Energy efficiency measures, not to include any measures to incent fuel
14 switching for residential heating systems; (B) load management; (C)
15 demand response; and (D) interruptible or curtailable load;

16 (4) "energy efficiency" means measures that reduce the amount of
17 energy required to achieve a given end use; and

18 (5) "public utility" means any public electric or gas utility, as defined
19 in K.S.A. 66-101, and amendments thereto, but does not include a
20 municipally-owned electric or gas utility or an electric or gas cooperative
21 that is exempt from commission jurisdiction pursuant to K.S.A. 66-104d,
22 and amendments thereto.

23 (b) It is the goal of the state to promote the implementation of cost-
24 effective demand-side programs in Kansas. It shall be the policy of the
25 state to value demand-side program investments equal to traditional
26 investments in supply and delivery infrastructure as much as is practicable,
27 but public utilities shall not be required to offer, implement or continue
28 demand-side programs.

29 (c) (1) (A) The commission shall permit public utilities to implement
30 commission-approved demand-side programs and cost recovery
31 mechanisms submitted pursuant to this section. The commission shall
32 issue an order on any demand-side program plan and cost-recovery
33 mechanisms within 180 days after submission to the commission. The
34 commission may extend the approval period to 240 days for good cause.
35 Consistent with K.S.A. 66-117(c), and amendments thereto, if the
36 commission fails to issue a final order on such program plan and cost-

1 recovery mechanism within 180 days, or 240 days if the approval period
2 was extended by the commission for good cause, such program plan and
3 cost-recovery mechanism shall be deemed approved by the commission
4 and shall take effect on the proposed effective date contained in such plan.

5 (B) The public utility and the commission shall both have the
6 independent authority to accept or reject any proposed establishment,
7 continuation or modification of a demand-side program, portfolio of
8 programs or associated cost-recovery or incentive mechanisms, but no
9 such establishment, continuation or modification of such programs or
10 mechanisms shall take effect without the approval of both the utility and
11 the commission. If the public utility rejects modifications to a demand-side
12 program or portfolio of programs approved by the commission, including
13 modifications to the cost-recovery mechanism, the public utility shall not
14 be required to implement the program or mechanism.

15 (C) Upon final ruling of the commission order, the public utility has
16 the right to reconsider and may withdraw its plan during the
17 reconsideration period, which shall not exceed 30 calendar days from the
18 date the final order was issued. Pursuant to K.S.A. 77-613, and
19 amendments thereto, the time period for filing a petition for judicial
20 review shall not begin until the completion of any such reconsideration
21 period.

22 (D) In making its decision whether or not to approve the proposed
23 program, the commission shall determine the appropriate test for
24 evaluating the cost-effectiveness of the demand-side program. Programs
25 targeted to low-income customers or general education campaigns do not
26 need to meet a cost-effectiveness test, so long as the commission
27 determines that the program or campaign is in the public interest and is
28 supported by a reasonable budget in the context of the overall budget.

29 (2) The commission shall allow recovery of the reasonable and
30 prudent costs associated with delivering commission-approved demand-
31 side programs, so long as the program: (A) Results in energy or demand
32 savings; and (B) is beneficial to customers in the customer class for which
33 the programs were implemented, whether or not the program is utilized by
34 all customers in such class. The fact that a commission-approved program
35 proves not to be cost-effective is not by itself sufficient grounds for
36 disallowing cost recovery. Programs determined to be non-cost-effective,
37 other than programs targeted to low-income customers or general
38 education campaigns, shall be modified to address deficiencies or
39 terminated following such determination.

40 (d) (1) To comply with this section, the commission may allow cost
41 recovery mechanisms that further encourage investments in demand-side
42 programs. Such cost recovery mechanisms may include, but shall not be
43 limited to: (A) Capitalization of investments in and expenditures for

1 demand-side programs; (B) recovery of lost revenue associated with
2 demand-side programs; (C) decoupling; (D) rate design modifications; (E)
3 accelerated depreciation on demand-side investments; and (F) allowing the
4 public utility to retain a portion of the net benefits of a demand-side
5 program for its shareholders.

6 (2) In determining rates for electricity as part of a demand-side
7 program, the commission shall fairly apportion the costs and benefits of
8 such programs to each customer class.

9 (e) To achieve the goals of this act, the commission shall:

10 (1) Provide timely cost recovery for electric public utilities;

11 (2) ensure that the financial incentives for an electric public utility are
12 aligned with helping such utility's customers use energy more efficiently
13 and in a manner that sustains or enhances such customers' incentives to use
14 energy more efficiently;

15 (3) provide timely earnings opportunities for public utilities
16 associated with cost-effective, measurable and verifiable demand-side
17 program savings;

18 (4) provide oversight and approval for utility-specific settlements and
19 tariff provisions; and

20 (5) provide independent evaluation of demand-side programs, as
21 deemed necessary by the commission.

22 (f) On or before May 31 of each year, each public utility shall submit
23 an annual report to the commission describing the results of such demand-
24 side programs for the previous calendar year. The report shall include:

25 (1) Program expenditures, including incentive payments;

26 (2) peak demand and energy savings impacts and the techniques used
27 to estimate such impacts;

28 (3) avoided costs and the techniques used to estimate such costs;

29 (4) the estimated cost-effectiveness of the demand-side programs;

30 (5) the net economic benefits of the demand-side programs; and

31 (6) a comparison of the commission authorized program budget to
32 actual costs.

33 (g) The commission may adopt rules and regulations for the
34 administration of this act.

35 (h) This section shall be known and may be cited as the Kansas
36 energy efficiency investment act.

37 Sec. 2. This act shall take effect and be in force from and after its
38 publication in the statute book.