

HOUSE BILL No. 2597

By Committee on Energy, Utilities and Telecommunications

Requested by Paul Snider on behalf of Kansans for Lower Electric Rates

1-25

1 AN ACT concerning public utilities; relating to the state corporation
2 commission; extending the timelines for the state corporation
3 commission to make a determination regarding rate-making treatment
4 for electric generating or transmission facilities; amending K.S.A. 2023
5 Supp. 66-1239 and repealing the existing section.
6

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

8 Section 1. K.S.A. 2023 Supp. 66-1239 is hereby amended to read as
9 follows: 66-1239. (a) As used in this section:

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

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

13 (3) "generating facility" means any electric generating plant or
14 improvement to existing generation facilities;

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

18 (5) "public utility" means the same as defined in K.S.A. 66-104, and
19 amendments thereto; and

20 (6) "transmission facility" means: (A) Any existing line, and
21 supporting structures and equipment, being upgraded for the transfer of
22 electricity with an operating voltage of 34.5 kilovolts or more of
23 electricity; or (B) any new line, and supporting structures and equipment,
24 being constructed for the transfer of electricity with an operating voltage
25 of 230 kilovolts or more of electricity.

26 (b) (1) Prior to undertaking the construction of, or participation in, a
27 transmission facility, a public utility may file with the commission a
28 petition for a determination of the rate-making principles and treatment, as
29 proposed by the public utility, that will apply to the recovery in wholesale
30 or retail rates of the cost to be incurred by the public utility to acquire such
31 public utility's stake in the transmission facility during the expected useful
32 life of the transmission facility.

33 (2) The commission shall issue an order setting forth the rate-making
34 principles and treatment that will be applicable to the public utility's stake
35 in the transmission facility in all rate-making proceedings on and after

1 such time as the transmission facility is placed in service or the term of the
2 contract commences.

3 (3) The commission in all proceedings in which the cost of the public
4 utility's stake in the transmission facility is considered shall utilize the rate-
5 making principles and treatment applicable to the transmission facility.

6 (4) If the commission fails to issue a determination within ~~180~~ 240
7 days of the date a petition for a determination of rate-making principles
8 and treatment is filed, the rate-making principles and treatment proposed
9 by the petitioning public utility will be deemed to have been approved by
10 the commission and shall be binding for rate-making purposes during the
11 useful life of the transmission facility.

12 (5) If the commission does not have jurisdiction to set wholesale rates
13 for use of the transmission facility the commission need not consider rate-
14 making principles and treatment for wholesale rates for the transmission
15 facility.

16 (c) (1) Prior to undertaking the construction of, or participation in, a
17 generating facility, prior to entering into a new contract or prior to retiring
18 or abandoning a generating facility, or within a reasonable time after
19 retirement or abandonment if filing before retirement or abandonment is
20 not possible under the circumstances, a public utility may file with the
21 commission an application for a determination of the rate-making
22 principles and treatment, as proposed by the public utility, that will apply
23 to:

24 (A) Recovery in wholesale or retail rates of the cost to be incurred by
25 the public utility to acquire such public utility's stake in the generating
26 facility during the expected useful life of the generating facility or the
27 recovery in rates of the contract during the term thereof; or

28 (B) reflection in wholesale or retail rates of the costs to be incurred
29 and the cost savings to be achieved by the public utility in retiring or
30 abandoning such public utility's stake in the generating facility, including,
31 but not limited to, the reasonableness of such retirement or abandonment.

32 (2) Any utility seeking a determination of rate-making principles and
33 treatment under subsection (c)(1) shall as a part of its filing submit the
34 following information:

35 (A) A description of the public utility's conservation measures;

36 (B) a description of the public utility's demand side management
37 efforts;

38 (C) the public utility's ten-year generation and load forecasts; and

39 (D) a description of all power supply alternatives considered to meet
40 the public utility's load requirements.

41 (3) In considering the public utility's supply plan, the commission
42 may consider if the public utility issued a request for proposal from a wide
43 audience of participants willing and able to meet the needs identified under

1 the public utility's generating supply plan, and if the plan selected by the
2 public utility is reasonable, reliable and efficient.

3 (4) The commission shall issue an order setting forth the rate-making
4 principles and treatment that will be applicable to the public utility's stake
5 in the generating facility or to the contract in all rate-making proceedings
6 on and after such time as the generating facility is:

7 (A) Placed in service or the term of the contract commences; or

8 (B) retired or abandoned.

9 (5) The commission in all proceedings in which the cost of the public
10 utility's stake in the generating facility or the cost of the purchased power
11 under the contract is considered shall utilize the rate-making principles and
12 treatment applicable to the generating facility, contract or retired or
13 abandoned generating facility.

14 (6) If the commission fails to issue a determination within ~~180~~ 240
15 days of the date a petition for a determination of rate-making principles
16 and treatment is filed, the rate-making principles and treatment proposed
17 by the petitioning public utility will be deemed to have been approved by
18 the commission and shall be binding for rate-making purposes during the
19 useful life of the generating facility, during the term of the contract or
20 during the period when the cost of the retired or abandoned generating
21 facility is reflected in customer rates.

22 (d) The public utility shall have one year from the effective date of
23 the determination of the commission to notify the commission whether it
24 will construct or participate in the construction of the generating or
25 transmission facility, whether it will perform under terms of the contract or
26 whether it will retire or abandon the generating facility.

27 (e) If the public utility notifies the commission within the one-year
28 period that the public utility will not construct or participate in the
29 construction of the generating or transmission facility, that it will not
30 perform under the terms of the contract or that it will not retire or abandon
31 the generating facility, then the determination of rate-making principles
32 pursuant to subsection (b) or (c) shall be of no further force or effect, shall
33 have no precedential value in any subsequent proceeding, and there shall
34 be no adverse presumption applied in any future proceeding as a result of
35 such notification.

36 (f) If the public utility notifies the commission under subsection (d)
37 that it will construct or participate in a generating facility or purchase
38 power contract and subsequently does not, or that it will retire or abandon
39 a generating facility and subsequently does not, it will be required to notify
40 the commission immediately and file an alternative supply plan with the
41 commission pursuant to subsection (c) within 90 days.

42 Sec. 2. K.S.A. 2023 Supp. 66-1239 is hereby repealed.

43 Sec. 3. This act shall take effect and be in force from and after its

- 1 publication in the statute book.