

HOUSE BILL No. 2143

By Committee on Energy and Utilities

2-4

1 AN ACT concerning utilities; relating to electric generation, transmission
2 and distribution facilities and recovery of costs for energy storage
3 devices; amending K.S.A. 2010 Supp. 66-1239, 66-1240 and 66-1247
4 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Sec. 1. K.S.A. 2010 Supp. 66-1239 is hereby amended to read as
8 follows: 66-1239. (a) As used in this section:

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

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

12 (3) "generating facility" means any electric generating plant or
13 improvement *including an energy storage device* to existing generation
14 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" has the meaning provided by 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 *including energy storage devices*,
22 being upgraded for the transfer of electricity with an operating voltage of
23 34.5 kilovolts or more of electricity; or (B) any new line, and supporting
24 structures and equipment *including energy storage devices*, being
25 constructed for the transfer of electricity with an operating voltage of 230
26 kilovolts or more of electricity;

27 (7) *"distribution facility" means that portion of an electric system to*
28 *furnish retail electric service, including any line, energy storage device*
29 *or other appurtenance, from a distribution substation to an electric*
30 *consuming facility, but shall not include a transmission facility used for*
31 *the bulk transfer of energy even if such energy is reduced in voltage and*
32 *used as station power; and*

33 (8) *"energy storage device" means a device or equipment used in the*
34 *process of using grid power to store electricity for release when needed.*
35 *Such energy storage devices shall include but not be limited to batteries,*
36 *fly wheels, compressed air storage and pumped hydro.*

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

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

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

17 (4) If the commission fails to issue a determination within 180 days
18 of the date a petition for a determination of rate-making principles and
19 treatment is filed, the rate-making principles and treatment proposed by
20 the petitioning public utility will be deemed to have been approved by the
21 commission and shall be binding for rate-making purposes during the
22 useful life of the transmission facility.

23 (5) If the commission does not have jurisdiction to set wholesale
24 rates for use of the transmission facility the commission need not
25 consider rate-making principles and treatment for wholesale rates for the
26 transmission facility.

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

35 (2) Any utility seeking a determination of rate-making principles
36 and treatment under subsection (c)(1) shall as a part of its filing submit
37 the following information: (A) A description of the public utility's
38 conservation measures; (B) a description of the public utility's demand
39 side management efforts; (C) the public utility's ten-year generation and
40 load forecasts; and (D) a description of all power supply alternatives
41 considered to meet the public utility's load requirements.

42 (3) In considering the public utility's supply plan, the commission
43 may consider if the public utility issued a request for proposal from a

1 wide audience of participants willing and able to meet the needs
2 identified under the public utility's generating supply plan, and if the plan
3 selected by the public utility is reasonable, reliable and efficient.

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

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

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

19 *(d) (1) Prior to undertaking the construction of, or participation*
20 *in, a distribution facility, a public utility may file with the commission a*
21 *petition for a determination of the rate-making principles and treatment,*
22 *as proposed by the public utility, that will apply to the recovery in*
23 *wholesale or retail rates of the cost to be incurred by the public utility to*
24 *acquire such public utility's stake in the distribution facility during the*
25 *expected useful life of the distribution facility.*

26 *(2) The commission shall issue an order setting forth the rate-*
27 *making principles and treatment that will be applicable to the public*
28 *utility's stake in the distribution facility in all rate-making proceedings on*
29 *and after such time as the distribution facility is placed in service or the*
30 *term of the contract commences.*

31 *(3) The commission in all proceedings in which the cost of the*
32 *public utility's stake in the distribution facility is considered shall utilize*
33 *the rate-making principles and treatment applicable to the distribution*
34 *facility.*

35 *(4) If the commission fails to issue a determination within 180 days*
36 *of the date a petition for a determination of rate-making principles and*
37 *treatment is filed, the rate-making principles and treatment proposed by*
38 *the petitioning public utility will be deemed to have been approved by the*
39 *commission and shall be binding for rate-making purposes during the*
40 *useful life of the distribution facility.*

41 *(5) If the commission does not have jurisdiction to set wholesale*
42 *rates for use of the distribution facility the commission need not consider*
43 *rate-making principles and treatment for wholesale rates for the*

1 *distribution facility.*

2 ~~(d)~~(e) The public utility shall have one year from the effective date
3 of the determination of the commission to notify the commission whether
4 it will construct or participate in the construction of the generating, ~~or~~
5 transmission *or distribution* facility or whether it will perform under
6 terms of the contract.

7 ~~(e)~~(f) If the public utility notifies the commission within the one-
8 year period that the public utility will not construct or participate in the
9 construction of the generating, ~~or~~ transmission *or distribution* facility or
10 that it will not perform under the terms of the contract, then the
11 determination of rate-making principles pursuant to subsection (b), ~~or~~ (c)
12 *or (d)* shall be of no further force or effect, shall have no precedential
13 value in any subsequent proceeding, and there shall be no adverse
14 presumption applied in any future proceeding as a result of such
15 notification.

16 ~~(f)~~(g) If the public utility notifies the commission under subsection
17 ~~(d)~~(e) that it will construct or participate in a generating facility or
18 purchase power contract and subsequently does not, it will be required to
19 notify the commission immediately and file an alternative supply plan
20 with the commission per subsection (c) within 90 days.

21 Sec. 2. K.S.A. 2010 Supp. 66-1240 is hereby amended to read as
22 follows: 66-1240. As used in K.S.A. 2010 Supp. 66-1241 through 66-
23 1244, and amendments thereto:

24 (a) "Appurtenances" means all substations, towers, poles, *energy*
25 *storage devices* and other structures and equipment necessary for the bulk
26 transfer of electricity.

27 (b) "Bulk transfer" means the transport of a large amount of
28 electricity at high voltage.

29 (c) "Commission" means the state corporation commission.

30 (d) "Construction or upgrade of an electric transmission line and
31 appurtenances" means construction or upgrade of an electric transmission
32 line and appurtenances to be used for the bulk transfer of 34.5 kilovolts or
33 more of electricity.

34 (e) "Electric transmission line" means any line or extension of a line
35 with an operating voltage of 34.5 kilovolts or more which is at least five
36 miles in length and which is to be used for the bulk transfer of electricity.

37 (f) "*Energy storage device*" means a device or equipment used in the
38 *process of using grid power to store electricity for release when needed.*
39 *Such energy storage devices shall include but not be limited to batteries,*
40 *fly wheels, compressed air storage and pumped hydro.*

41 Sec. 3. K.S.A. 2010 Supp. 66-1247 is hereby amended to read as
42 follows: 66-1247. (a) As used in this section:

43 (1) "Appurtenances" means all substations, towers, poles, *energy*

1 *storage devices* and other structures and equipment necessary for the bulk
2 transfer of electricity.

3 (2) "Commission" means the state corporation commission.

4 (3) "Construction or upgrade of an electric transmission facility"
5 means construction or upgrade of an electric line, and appurtenances,
6 with an operating voltage of 115 kilovolts or more.

7 (4) "*Energy storage device*" means a device or equipment used in
8 the process of using grid power to store electricity for release when
9 needed. Such energy storage devices shall include but not be limited to
10 batteries, fly wheels, compressed air storage and pumped hydro.

11 (b) Upon application, the commission may authorize recovery of
12 costs associated with the construction or upgrade of an electric
13 transmission facility if the commission finds that:

14 (1) (A) A regional transmission organization has identified such
15 construction or upgrade as appropriate for reliable operation of the
16 integrated electric transmission system or for economic benefits to
17 transmission owners and customers; and (B) a state agency has
18 determined that such construction or upgrade will provide measurable
19 economic benefits to electric consumers in all or part of this state that will
20 exceed anticipated project costs; and

21 (2) such costs are not being otherwise recovered.

22 (c) The commission shall review an application for recovery of costs
23 pursuant to this section in an expedited manner if the application includes
24 evidence that expedited construction or upgrade of the electric
25 transmission facility will result in significant, measurable economic
26 benefits to Kansas electric consumers. Recommendation or approval of
27 construction or upgrade of an electric transmission facility by a regional
28 transmission organization shall constitute a rebuttable presumption of the
29 appropriateness of such construction or upgrade for system reliability or
30 economic dispatch of power.

31 (d) In determining whether to approve recovery of costs pursuant to
32 this section the commission may consider factors such as the speed with
33 which Kansas electric consumers will benefit from the transmission
34 facility and the long-term benefits of the transmission facility to Kansas
35 electric consumers, or both, and whether such factors outweigh other less
36 costly options. An application for recovery of costs pursuant to this
37 section shall include such information as the commission requires to
38 weigh such factors, including, but not limited to, information regarding
39 estimated line losses, reactive power and voltage implications and long-
40 term economic and system reliability benefits.

41 (e) Any recovery of costs authorized by the commission pursuant to
42 this section shall be assessed against all electric public utilities, electric
43 municipal utilities and electric cooperative utilities receiving benefits of

1 the construction or upgrade and having retail customers in this state. Each
2 such utility's assessment shall be based on the benefits the utility receives
3 from the construction or upgrade. In determining allocation of benefits
4 and costs to utilities, the commission may take into account funding and
5 cost recovery mechanisms developed by regional transmission
6 organizations and shall take into account financial payments by
7 transmission users and approved by the federal energy regulatory
8 commission or regional transmission organization. Each electric public
9 utility shall recover any such assessed costs from the utility's retail
10 customers in a manner approved by the commission and each electric
11 municipal or cooperative utility shall recover such assessed costs from
12 the utility's retail customers in a manner approved by the utility's
13 governing body.

14 (f) All moneys collected by a utility from assessments authorized by
15 the commission pursuant to this section shall be paid quarterly by the
16 utility to the transmission operator or owner designated by the
17 commission.

18 (g) Notwithstanding any other provision of law to the contrary,
19 electric municipal utilities and electric cooperative utilities shall be
20 subject to the jurisdiction of the commission for the limited purpose of
21 implementing the provisions of this section.

22 Sec. 4. K.S.A. 2010 Supp. 66-1239, 66-1240 and 66-1247 are
23 hereby repealed.

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

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