

SENATE BILL No. 396

By Committee on Utilities

2-7

1 AN ACT concerning utilities; relating to electric public utilities;
2 concerning electric rates, exclusion of taxes in excess of applicable
3 rates; amending K.S.A. 66-117 and repealing the existing section.
4

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

6 Section 1. K.S.A. 66-117 is hereby amended to read as follows: 66-
7 117. (a) Unless the state corporation commission otherwise orders, no
8 common carrier or public utility over which the commission has control
9 shall make effective any changed rate, joint rate, toll, charge or
10 classification or schedule of charges, or any rule or regulation or practice
11 pertaining to the service or rates of such public utility or common carrier
12 except by filing the same with the commission at least 30 days prior to the
13 proposed effective date. The commission, for good cause, may allow such
14 changed rate, joint rate, toll, charge or classification or schedule of
15 charges, or rule or regulation or practice pertaining to the service or rates
16 of any such public utility or common carrier to become effective on less
17 than 30 days' notice. If the commission allows a change to become
18 effective on less than 30 days' notice, the effective date of the allowed
19 change shall be the date established in the commission order approving
20 such change, or the date of the order if no effective date is otherwise
21 established. Any such proposed change shall be shown by filing with the
22 state corporation commission a schedule showing the changes, and such
23 changes shall be plainly indicated by proper reference marks in
24 amendments or supplements to existing tariffs, schedules or classifications,
25 or in new issues thereof.

26 (b) Whenever any common carrier or public utility governed by the
27 provisions of this act files with the state corporation commission a
28 schedule showing the changes desired to be made and put in force by such
29 public utility or common carrier, the commission either upon complaint or
30 upon its own motion, may give notice and hold a hearing upon such
31 proposed changes. Pending such hearing, the commission may suspend the
32 operation of such schedule and defer the effective date of such change in
33 rate, joint rate, toll, charge or classification or schedule of charges, or any
34 rule or regulation or practice pertaining to the service or rates of any such
35 public utility or common carrier by delivering to such public utility or
36 common carrier a statement in writing of its reasons for such suspension.

1 (c) The commission shall not delay the effective date of the proposed
2 change in rate, joint rate, toll, charge or classification or schedule of
3 charges, or in any rule or regulation or practice pertaining to the service or
4 rates of any such public utility or common carrier, more than 240 days
5 beyond the date the public utility or common carrier filed its application
6 requesting the proposed change. If the commission does not suspend the
7 proposed schedule within 30 days of the date the same is filed by the
8 public utility or common carrier, such proposed schedule shall be deemed
9 approved by the commission and shall take effect on the proposed
10 effective date. If the commission has not issued a final order on the
11 proposed change in any rate, joint rate, toll, charge or classification or
12 schedule of charges, or any rule or regulation or practice pertaining to the
13 service or rates of any such public utility or common carrier, within 240
14 days after the carrier or utility files its application requesting the proposed
15 change, then the schedule shall be deemed approved by the commission
16 and the proposed change shall be effective immediately, except that: (1)
17 For purposes of ~~the foregoing provisions regarding~~ the period of time
18 ~~within which~~ *that* the commission shall act on an application, any
19 amendment to an application for a proposed change in any rate, ~~which~~ *that*
20 increases the amount sought by the public utility or common carrier or
21 substantially alters the facts used as a basis for such requested change of
22 rate, shall, at the option of the commission, be deemed a new application
23 and the 240-day period shall ~~begin again~~ *restart* from the date of the filing
24 of the amendment; (2) if hearings are in process before the commission on
25 a proposed change requested by the public utility or common carrier on the
26 last day of such 240-day period, such period shall be extended to the end
27 of such hearings plus 20 days to allow the commission to prepare and issue
28 its final order; and; (3) nothing in this subsection shall preclude the public
29 utility or common carrier and the commission from agreeing to a waiver or
30 an extension of the 240-day period.

31 (d) Except as provided in subsection (c), no change shall be made in
32 any rate, toll, charge, classification or schedule of charges or joint rates, or
33 in any rule or regulation or practice pertaining to the service or rates of any
34 such public utility or common carrier, without the consent of the
35 commission. Within 30 days after such changes have been authorized by
36 the state corporation commission or become effective as provided in
37 subsection (c), copies of all tariffs, schedules and classifications, and all
38 rules and regulations, except those determined to be confidential under
39 rules and regulations adopted by the commission, shall be filed in every
40 station, office or depot of every such public utility and every common
41 carrier in this state, for public inspection.

42 (e) Upon a showing by a public utility before the state corporation
43 commission at a public hearing and a finding by the commission that such

1 utility has invested in projects or systems that can be reasonably expected
2 ~~(1)~~ to produce energy from a renewable resource other than nuclear for the
3 use of its customers, ~~(2)~~ to cause the conservation of energy used by its
4 customers; or ~~(3)~~ to bring about the more efficient use of energy by its
5 customers, the commission may allow a return on such investment equal to
6 an increment of from $\frac{1}{2}\%$ to 2% plus an amount equal to the rate of return
7 fixed for the utility's other investment in property found by the
8 commission to be used or required to be used in its services to the public.
9 The commission may also allow such higher rate of return on investments
10 by a public utility in experimental projects, such as load management
11 devices, which it determines after public hearing to be reasonably designed
12 to cause more efficient utilization of energy and in energy conservation
13 programs or measures which it determines after public hearing provides a
14 reduction in energy usage by its customers in a cost-effective manner.

15 (f) Whenever, after the effective date of this act, an electric public
16 utility, a natural gas public utility or a combination thereof, files tariffs
17 reflecting a surcharge on the utility's bills for utility service designed to
18 collect the annual increase in expense charged on its books and records for
19 ad valorem taxes, such utility shall report annually to the state corporation
20 commission the changes in expense charged for ad valorem taxes. For
21 purposes of this section, such amounts charged to expense on the books
22 and records of the utility may be estimated once the total property tax
23 payment is known. If found necessary by the commission or the utility, the
24 utility shall file tariffs which reflect the change as a revision to the
25 surcharge. Upon a showing that the surcharge is applied to bills in a
26 reasonable manner and is calculated to substantially collect the increase in
27 ad valorem tax expense charged on the books and records of the utility, or
28 reduce any existing surcharge based upon a decrease in ad valorem tax
29 expense incurred on the books and records of the utility, the commission
30 shall approve such tariffs within 30 days of the filing. Any over or under
31 collection of the actual ad valorem tax increase charged to expense on the
32 books of the utility shall be either credited or collected through the
33 surcharge in subsequent periods. The establishment of a surcharge under
34 this section shall not be deemed to be a rate increase for purposes of this
35 act. The net effect of any surcharges established under this section shall be
36 included by the commission in the establishment of base rates in any
37 subsequent rate case filed by the utility.

38 (g) *Unless the state corporation commission otherwise orders, no*
39 *common carrier or public utility over which the commission has control*
40 *shall include in its rates an amount for federal or state corporate income*
41 *taxes that exceeds the then-applicable federal and state income tax rate*
42 *for corporations. In the event a common carrier or public utility, through*
43 *its rates, collects an amount for federal or state income taxes in excess of*

1 *the amount of income taxes that were expected to be owed based on*
2 *federal or state income tax rates applicable at the time such rates were*
3 *approved by the commission, the common carrier or public utility shall*
4 *refund the difference with 5% interest to customers of such common*
5 *carrier or public utility within 150 days of the tax change. Any refunds*
6 *should be dispersed to customers through a separate line item on a bill or*
7 *through direct mail or electronically deposited payment to such customers*
8 *outside of a monthly bill for service.*

9 ~~(g)~~ (h) Except as to the time limits prescribed in subsection (c),
10 proceedings under this section shall be conducted in accordance with the
11 provisions of the Kansas administrative procedure act.

12 Sec. 2. K.S.A. 66-117 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the Kansas register.