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MEMORANDUM

To: Chairman Masterson and Members of Committee on Utilities

From: Office of Revisor of Statutes

Date: February 12, 2020

RE: Senate Bill 339

SB 339 would give the Kansas Corporation Commission the authority to approve contract rates and discounted rates for electric service to certain facilities. For the contracts rates and reduced rates allowed under the bill, the KCC would need to allocate the reduced revenues for the electric public utility to the utility's other non-contract customers through a uniform percentage adjustment and approve a tracking mechanism to track the reductions in revenue experienced by the utility. The reductions in revenue would be deferred to a regulatory asset and would accrue interest at the weighted average cost of capital used by the KCC to set the utility's rates and would be amortized over a reasonable period until fully collected from the utility's non-contract rate customers.

Section 1 of the bill would give the KCC the authority outside of a general rate proceeding to approve reduced contract rates for electric service to a facility that are not based on the electric utility's cost of service to a facility. To approve such a rate, the KCC would have to determine that the facility that would receive the contract rate would not continue operations without the rate and that the contract rate was in the best interest of the state of Kansas based on the interests of the customers of the electric public utility serving the facility, an evaluation of the incremental cost to serve the facility, and the interests of Kansans in promoting economic development.

The KCC would also have the authority to approve a contract rate that was based on the electric public utility's incremental cost of service for a facility. For a contract rate that was based on the incremental cost of service, the KCC would have to determine that the facility that would receive the contract rate would not commence or expand operations without the rate and that the contract rate would recover the incremental cost of providing service to the facility. The KCC would also have to determine that the contract rate was in the best interest of the state of Kansas based on the interests of the customers of the electric public utility serving the facility, the incremental cost to serve the facility, and the interests of Kansans in promoting economic development.

The contract rates authorized by section 1 could be approved by the KCC for a term of up to 10 years, and an electric public utility could apply for reapproval of contract rates for a facility that the KCC had previously granted approval. If the KCC approved a contract rate, the commission would not have the authority to modify or eliminate any such contract rate during the term of the rate.

Section 1 Definitions:

- "Electric public utility" means a public utility as defined in K.S.A. 66-104 which generates or sells electricity.
- (2) "Facility" means an existing or proposed building or buildings of an existing or potential electric customer with existing or expected load equal to, or in excess of, a monthly demand of 50 megawatts, and such load may represent the aggregate demand of multiple meter accounts.

Section 2 of the bill would allow the KCC to authorize an electric public utility to implement economic development rate schedules that provide discounts from otherwise standard rates for electric service for new or expanded facilities of industrial or commercial customers that are not in the business of selling or providing goods or services directly to the general public. To be eligible for the discounts, such customer is required to have financial incentives to locate the new or expanded facilities in the utility's service territory. The customer must also qualify for service under the utility's rate schedules for the new or expanded facility and cannot receive the discount together with service pursuant to any other special contract agreements.

The discount authorized by section 2 would only be applicable to new facilities or expanded facilities that either:

(1) Have a peak demand that is projected to be at least 200 kilowatts within two years of receiving service and an annual load factor projected to exceed the customer's load factor within two years or otherwise warrants a discounted rate; or
(2) have a peak demand that is projected to be at least 300 kilowatts within two years.

The discount authorized by section 2 would be determined by reducing otherwise applicable charges associated with the rate schedule applicable to the new or expanded existing facility by a fixed percentage for each year of service under the discount for a period of up to five years. The average of the annual discount percentages could not:

(1) Exceed 20% for discounts for facilities that had a projected peak demand of at least 200 kilowatts, but could be between 5% to 30% in any year; and
(2) exceed 40% for discounts for facilities that had a projected peak demand of at least 300 kilowatts, but could be between 20% to 50% in any year.

Section 2 Definitions:

- "Electric public utility" means a public utility as defined in K.S.A. 66-104 which generates or sells electricity.

- (2) "Expanded facility" means a separately metered facility of the customer, unless the utility determines that the additional costs of separate metering of such facility would exceed the associated benefits or that it would be difficult or impractical to install or read the meter, that has not received service in the electric utility's certified service territory in the previous 12 months; and
- (3) "New facility" means a building of the customer that has not received electric service in the electric utility's certified service territory in the previous 12 months.

Section 3 and 4 of the bill make conforming amendments to the bill by exempting sections 1 and 2 from the provisions of K.S.A. 66-101b concerning just and reasonable rates and K.S.A. 66-109 prohibiting variations from rate schedules.