

## 2012 Kansas Statutes

**66-128g. Determination of "prudence" in determining reasonable value of electric generating property; factors to be considered; presumption of lack of prudence of costs in excess of 200% of "original cost estimate"; definition of "original cost estimate"; when costs exceeding 200% may be included.** (a) The factors which shall be considered by the commission in making the determination of "prudence" or lack thereof in determining the reasonable value of electric generating property, as contemplated by this act shall include without limitation the following:

(1) A comparison of the existing rates of the utility with rates that would result if the entire cost of the facility were included in the rate base for that facility;

(2) a comparison of the rates of any other utility in the state which has no ownership interest in the facility under consideration with the rates that would result if the entire cost of the facility were included in the rate base;

(3) a comparison of the final cost of the facility under consideration to the final cost of other facilities constructed within a reasonable time before or after construction of the facility under consideration;

(4) a comparison of the original cost estimates made by the owners of the facility under consideration with the final cost of such facility;

(5) the ability of the owners of the facility under consideration to sell on the competitive wholesale or other market electrical power generated by such facility if the rates for such power were determined by inclusion of the entire cost of the facility in the rate base;

(6) a comparison of any overruns in the construction cost of the facility under consideration with any cost overruns of any other electric generating facility constructed within a reasonable time before or after construction of the facility under consideration;

(7) whether the utility having an ownership interest in the facility being considered has provided a method to ensure that the cost of any decommissioning, any waste disposal or any cost of clean up of any incident in construction or operation of such facility is to be paid by the utility;

(8) inappropriate or poor management decisions in construction or operation of the facility being considered;

(9) whether inclusion of all or any part of the cost of construction of the facility under consideration, and the resulting rates of the utility therefrom, would have an adverse economic impact upon the people of Kansas;

(10) whether the utility acted in the general public interest in management decisions in the acquisition, construction or operation of the facility;

(11) whether the utility accepted risks in the construction of the facility which were inappropriate to the general public interest to Kansas;

(12) any other fact, factor or relationship which may indicate prudence or lack thereof as that term is commonly used.

(b) The portion of the cost of a plant or facility which exceeds 200% of the "original cost estimate" thereof shall be presumed to have been incurred due to a lack of prudence. The commission may include any or all of the portion of cost in excess of 200% of the "original cost estimate" if the commission finds by a preponderance of the evidence that such costs were prudently incurred. As used in this act "original cost estimate" means:

(1) For property of an electric utility which has been constructed without obtaining an advance permit under K.S.A. 66-1,159 *et seq.*, and amendments thereto, the "definitive estimate"; and

(2) for property of an electric utility which has been constructed after obtaining an advance permit under K.S.A. 66-1,159 *et seq.*, and amendments thereto, the cost estimate made by the utility in the process of obtaining the advance permit.

**History:** L. 1984, ch. 247, § 8; April 19.