

HOUSE BILL No. 2527

AN ACT concerning public utilities; relating to the state corporation commission; authorizing public utilities to defer to a regulatory asset and recover depreciation expenses relating to certain rate base additions; establishing a cap on such cost recovery and limiting the time that such cost recovery may be implemented by a public utility; authorizing new economic development electric rates for large facilities; limiting the time that such economic development rates for large facilities may be implemented by a public utility; prohibiting any revenue lost through the implementation of economic development rates from being imputed into the electric public utility's revenue requirement; prohibiting the commission from authorizing the retirement of nuclear powered and fossil fuel-fired electric generating units unless certain requirements are met; authorizing electric public utilities to retain certain electric generating facilities in the utility's rate base; requiring the commission to report annually on public utility requests to retire electric generating units; authorizing a rate adjustment mechanism for the construction of new gas-fired electric generating facilities; limiting the time that such rate adjustment mechanism may be implemented by a public utility; extending the timeline for the commission to make a determination of ratemaking principles and treatment prior to a public utility constructing or acquiring a stake in an electric generation or transmission facility; establishing procedural requirements to support the timely completion of such proceedings; revising the net metering and easy connection act; increasing the public utility system-wide capacity limit for facilities subject to net metering; requiring net metering facilities to be appropriately sized based on the customer's expected load; establishing requirements for exporting power from a net metering facility to a utility; amending K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and K.S.A. 2023 Supp. 66-101j and 66-1239 and repealing the existing sections.

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

New Section 1. (a) As used in this section:

(1) "Commission" means the state corporation commission.

(2) "Public utility" means the same as defined in K.S.A. 66-104, and amendments thereto.

(3) "Qualifying electric plant" means all rate base additions by an electric public utility. "Qualifying electric plant" does not include transmission facilities or new electric generating units.

(4) "Rate base cutoff date" means the date rate base additions are accounted for in a general rate proceeding. In the absence of a commission order that specifies the rate base cutoff date, "rate base cutoff date" means the date as reflected in any jointly proposed procedural schedule submitted by the parties in the applicable general rate proceeding, or the date that is otherwise agreed to by such parties.

(5) "Weighted average cost of capital" means the return on rate base used to determine the revenue requirement or that was approved to be used for regulatory accounting purposes in the public utility's most recently ordered return on rate base in a general rate proceeding.

(b) Notwithstanding any other provision of law except K.S.A. 66-1239(b)(5), and amendments thereto, commencing on July 1, 2024, a public utility shall defer to a regulatory asset 90% of all depreciation expense and return associated with all qualifying electric plants recorded to plant-in-service on the utility's books if the public utility has provided notice to the commission of the public utility's election to make such deferrals pursuant to subsection (f)(1). Such deferral shall begin on July 1, 2024, if the public utility has notified the commission of the public utility's election to make such deferral by such date or shall begin on the date that such election is made if such election is made after July 1, 2024. Except as provided in subsection (c), subsection (f)(2) and the provisions of section 2, and amendments thereto, in each general rate proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate base cutoff date shall be included in the public utility's rate base without any offset, reduction or adjustment based upon consideration of any other factor with the regulatory asset balance arising from deferrals associated with qualifying electric plants placed in service after the rate base cutoff date to be included in rate base in the next general rate proceeding.

(c) The regulatory asset balances arising under this section shall

be adjusted to reflect any prudence disallowances ordered by the commission. This section shall not be construed to affect existing law with respect to the burdens of production and persuasion in general rate proceedings for rate base additions.

(d) Parts of regulatory asset balances created under this section that are not included in rate base shall include carrying costs at the public utility's weighted average cost of capital, plus applicable federal, state and local income or excise taxes. Regulatory asset balances arising under this section that are included in rate base shall be recovered in rates through a 20-year amortization beginning on the date new rates reflecting such amortization take effect.

(e) (1) Depreciation expense deferred under this section shall account for any qualifying electric plant placed into service less retirements of the plant replaced by such qualifying electric plant.

(2) Return deferred under this section shall be determined using the weighted average cost of capital applied to the change in plant-related rate base caused by the qualifying electric plant, plus applicable federal, state and local income or excise taxes. In determining the return deferred, the public utility shall account for changes in all plant-related accumulated deferred income taxes and changes in accumulated depreciation, excluding retirements.

(f) (1) This section shall only apply to any public utility that has elected to make the deferrals for which this section provides and filed a notice with the commission of such election.

(2) A public utility that makes such election shall be authorized to make the deferrals authorized by this section until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to make the deferrals authorized by this section until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the deferrals authorized pursuant to this section. If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from making such deferrals after December 31, 2030, and shall not otherwise affect or terminate any deferral that is authorized to be made pursuant to this section or any regulatory or ratemaking treatment of the regulatory assets arising from such deferrals.

(g) The provisions of this section shall not be construed to restrict or limit the authority of the commission to authorize a public utility to use deferral accounting treatment for any rate base addition, such as a new electric generating unit, that is not considered a qualifying electric plant pursuant to this section.

New Sec. 2. (a) As used in this section:

(1) "Commission" means the state corporation commission.

(2) "Public utility" means the same as defined in K.S.A. 66-104, and amendments thereto.

(3) "Qualifying regulatory asset" means any regulatory asset balance arising pursuant to section 1, and amendments thereto, from the rate base cutoff date in the public utility's prior general rate proceeding to the rate base cutoff date in the current general rate proceeding in which the revenue requirement impact cap is applied.

(4) "Rate base cutoff date" means the date rate base additions are

accounted for in a general rate proceeding. In the absence of a commission order that specifies the "rate base cutoff date," "rate base cutoff date" means the date as reflected in any jointly proposed procedural schedule submitted by the parties in the applicable general rate proceeding or the date that is otherwise agreed to by the parties.

(5) "Revenue requirement impact cap" means the product of:

(A) $\frac{1}{12}$ of 1.5% multiplied by the number of months that have elapsed from the effective date of new base rates in an electric public utility's most recently completed general rate proceeding to the effective date of new base rates in the general rate proceeding in which the cap is applied; and

(B) the retail revenue requirement used to set base rates in the electric public utility's most recently completed general rate proceeding concluded prior to the general rate proceeding in which the cap is applied.

(b) The provisions of this section apply to any public utility that has elected to make the deferrals authorized pursuant to section 1, and amendments thereto, until the public utility's authority to make such deferrals expires pursuant to section 1, and amendments thereto.

(c) Any part of a public utility's retail revenue requirement used to set the public utility's base rates in any general rate proceeding of the public utility that is concluded on or after July 1, 2024, and that consists of a revenue requirement arising from inclusion in rate base of the qualifying regulatory asset balance shall not exceed the revenue requirement impact cap. If inclusion in rate base of the full balance of the qualifying regulatory asset balance would cause the public utility to exceed the revenue requirement impact cap, any part of the qualifying regulatory asset balance that exceeds the revenue requirement impact cap shall not be included in rate base and the qualifying regulatory asset balance shall be reduced accordingly as a penalty.

Sec. 3. K.S.A. 2023 Supp. 66-101j is hereby amended to read as follows: 66-101j. (a) Notwithstanding the provisions of K.S.A. 66-101b or 66-109, and amendments thereto, the commission shall authorize an electric public utility to implement economic development rate schedules that provide discounts from otherwise applicable 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 such discounts, such customer shall:

(1) Have incentives from one or more local, regional, state or federal economic development agencies to locate such new or expanded facilities in the electric public utility's certified service territory;

(2) qualify for service under the electric public utility's non-residential and non-lighting rate schedules for such new or expanded facility; and

(3) not receive the discount together with service provided by the electric public utility pursuant to any other special contract agreements.

(b) The discount authorized by this section shall only be applicable to new facilities or expanded facilities that have:

(1) A peak demand that is reasonably projected to be at least 200 kilowatts within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:

(A) Has an annual load factor that is reasonably projected to equal or exceed the electric public utility's annual system load factor within two years of the date the customer first receives service under the discounted rate; or

(B) otherwise warrants a discounted rate based on any of the following factors:

(i) The number of new permanent full-time jobs created or the percentage increase in existing permanent full-time jobs created;

(ii) the level of capital investment;

(iii) additional off-peak usage;

(iv) curtailable or interruptible load;

(v) new industry or technology; or

(vi) competition with existing industrial customers; ~~or~~

(2) *a peak demand that is reasonably projected to be at least 300 kilowatts within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:*

(A) *An annual load factor that is reasonably projected to be at least 55% within two years of the date the customer first receives service under the discounted rate; and*

(B) *the facility shall, once first achieved, maintain the peak demand and load factor for the remaining duration of the discounted rate; or*

(3) *a peak demand that is reasonably projected to be at least ~~300 kilowatts~~ 25 megawatts within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:*

(A) *An annual load factor that is reasonably projected to be at least 55% within two years of the date the customer first receives service under the discounted rate; and*

(B) *the facility shall, once first achieved, maintain the peak demand and load factor for the remaining duration of the discounted rate.*

(c) The discount authorized by this section shall 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:

(1) *Five years to facilities that qualify pursuant to subsection (b)(1) or (b)(2); and*

(2) *10 years to facilities that qualify pursuant to subsection (b)(3).*

(d) (1) *For discounts to facilities that qualify pursuant to subsection (b)(1), the average of the annual discount percentages shall not:*

(1) ~~exceed 20% for discounts that qualify pursuant to subsection (b)(1), but, except that such discounts may be between 5% to 30% in any year; and of such five-year period.~~

(2) *For discounts to facilities that qualify pursuant to subsection (b)(2), the average of the annual discount percentages shall not exceed 40%, except that such discounts may be between 20% and 50% in any year of such five-year period.*

(3) *For discounts to facilities that qualify pursuant to subsection (b)(3), the average of the annual discount percentages shall not exceed:*

(A) *For the first five years of the discount period, 40% ~~for discounts that qualify pursuant to subsection (b)(2), but, except that such discounts may be between 20% to 50% in any year of such five-year period; and~~*

(B) *for the final five years of the discount period, 20%, except that such discounts may be between 10% and 30% in any year of such five-year period.*

~~(d)(e)~~ In each general rate proceeding concluded after the effective date of this section, the commission shall allocate the reduced level of revenues arising from the discounted rates provided for in this section through the application of a uniform percentage adjustment to the revenue requirement responsibility for all customer classes of the electric public utility providing such discounted rate, including the classes with customers that qualify for discounts under this section, except for rates for service provided to customers under contract rates either approved by the commission pursuant to K.S.A. 2023 Supp. 66-101i, and amendments thereto, or the commission's general ratemaking authority *(1) Except as provided in paragraph (2), on and after July 1, 2024, the difference in revenues generated by applying the discounted rates authorized pursuant to this section and the revenues that would have been generated without such discounts shall not be imputed into the electric public utility's revenue requirement.*

(2) Any reduction in revenue resulting from any discount provided pursuant to this section that was tracked by the public utility and deferred to a regulatory asset prior to July 1, 2024, shall be recoverable in any general rate proceeding initiated on or after July 1, 2024, through an equal percentage adjustment to the revenue requirement responsibility for all customer classes of the public utility, including the customer classes that include customers qualifying for discounts pursuant to this section.

~~(e) (1) The commission shall approve a tracking mechanism to track reductions in revenue experienced by the electric public utility serving the facility as a result of the discount rate from the date the discount rate becomes effective; and~~

~~(2) such reductions in revenue shall be deferred to a regulatory asset and shall accrue interest at the weighted average cost of capital used by the commission to set the electric public utility's rates in its most recently concluded general rate proceeding with the balance of such regulatory asset to be included in the rate base and revenue requirement of the electric public utility in each of the utility's general rate proceedings through an amortization of the balance over a reasonable period until fully collected from the utility's non-contract rate customers.~~

(f) The provisions of this section shall not apply to rates for service provided to customers under contract rates approved by the commission pursuant to K.S.A. 2023 Supp. 66-101i, and amendments thereto, or the commission's general ratemaking authority according to custom and practice of the commission in place prior to the effective date of this section.

(g) Starting in January 2023, the commission shall biennially provide a status report to the legislature about any discounts from tariffed rates authorized pursuant to this section. Such report shall include the:

- (1) Number of entities with such discounts;
- (2) number of entities with increased load;
- (3) number of entities with decreased load;
- (4) aggregate load and change in aggregate load on an annual basis;
- (5) total subsidy and the subsidy for each individual contract;
- (6) annual and cumulative rate impact on non-contract rate customers; and
- (7) estimated economic development impact of entities with discounted rates that occurred as a result of such discounts through an evaluation of the annual: (A) Total employment for such entities; (B) change in employment for such entities; and (C) tax revenue generated by such entities.

(h) *An electric public utility shall be authorized to only implement discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to implement such discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When considering and making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3). If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from implementing discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) after December 31, 2030, and shall not otherwise affect or terminate any discounted rates implemented by the public utility pursuant to this section or any regulatory or ratemaking treatment of such discounted rates.*

(i) For the purposes of this section:

(1) "Electric public utility" means the same as ~~prescribed~~ defined in K.S.A. 66-101a, and amendments thereto, but does not include any such utility that is a cooperative as defined in K.S.A. 66-104d, and amendments thereto, or owned by one or more such cooperatives;

(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.

Sec. 4. K.S.A. 2023 Supp. 66-1239 is hereby amended to read as follows: 66-1239. (a) As used in this section:

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

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

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

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

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

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

(7) "Weighted average cost of capital" means the same as defined in section 1, and amendments thereto.

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

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

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

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

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

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

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

or

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

(2) Any utility seeking a determination of rate-making principles and treatment under subsection (c)(1) shall as a part of its filing ~~submit the following information: (A) A description of the public utility's conservation measures; (B) a description of the public utility's demand side management efforts; (C) the public utility's ten-year generation and load forecasts; and (D) a description of all power supply alternatives considered to meet the public utility's load requirements~~ describe how the public utility's stake in the generating facility is consistent with the public utility's most recent preferred plan and resource acquisition strategy submitted to the commission.

(3) In considering the public utility's ~~supply~~ preferred plan and resource acquisition strategy, the commission may consider if the public utility issued a request for proposal from a wide audience of participants willing and able to meet the needs identified under the public utility's ~~generating supply~~ preferred plan, and if the plan selected

by the public utility is reasonable, reliable and efficient.

(4) *For requests by a public utility for a determination of ratemaking principles and treatment relating to the abandonment or retirement of a nuclear powered or fossil fuel-fired electric generating unit, the commission shall not approve the abandonment or retirement of such electric generating unit, authorize a surcharge or issuance of bonds for the decommissioning of such electric generating unit or take any other action that authorizes or allows for the recovery of costs for the retirement of such electric generating unit, including stranded asset recovery, unless:*

(A) The utility demonstrates that the public utility will be able to meet current and reasonably-anticipated future resource adequacy requirements of the regional transmission organization or independent system operator; and

(B) the abandonment or retirement is not expected to harm the utility's customers or decrease the utility's regional rate competitiveness by causing the utility to experience higher costs than would be expected by continuing to operate such electric generating unit in compliance with applicable law, unless, consistent with the integrated resource planning framework utilized by the commission, the commission determines that such higher costs are justified by other factors that are specified by the commission. The utility shall provide the commission with evidence of all known direct and indirect costs of abandonment or retirement of the electric generating unit and demonstrate that cost savings or avoided or mitigated cost increases to customers will occur as a result of the abandonment or retirement of the electric generating unit.

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

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

(B) retired or abandoned.

~~(5)~~(6) *(A) With respect to a new gas-fired generating facility, unless the commission timely elects not to set forth ratemaking principles applicable in the future on the grounds that acquiring a stake in such a generating facility is not reasonable, then notwithstanding any other provision of law, the public utility shall be permitted to implement a new rate adjustment mechanism designed to recover the return on 100% of amounts recorded to construction work in progress on the public utility's books for the public utility's stake in such a generating facility, which shall not exceed the definitive cost estimate found reasonable by the commission in a proceeding conducted pursuant to this section for the public utility's acquisition of the public utility's stake in such generating facility, unless otherwise ordered by the commission in a subsequent proceeding, at the weighted average cost of capital without offset, adjustment or reduction for any other issue or consideration, except that such return shall be in lieu of any otherwise applicable allowance for funds used during construction that would have accrued from and after the effective date of inclusion of construction work in progress in such rate adjustment mechanism. A rate adjustment mechanism authorized pursuant to this section shall become effective not sooner than 365 days after construction of the generation facility begins and within 60 days of the filing for the establishment of such mechanism by the public utility. As construction of the public utility's stake in such a generating facility continues and the balance of construction work in progress grows, the rate adjustment mechanism in effect shall be subject to periodic increases,*

without adjustment, offset or reduction for any other issue or consideration, except that such periodic increases shall not occur more frequently than once every six months. Except as provided in this section, the public utility's customers shall be charged pursuant to such rate adjustment mechanism until such time as new base rates reflecting the public utility's investment in such generating facility take effect, with such base rates to include a deferral for depreciation expense incurred and carrying costs on any unrecovered portion of such investment at the public utility's weighted average cost of capital as determined in the rate-making proceeding setting such base rates that occurred between the date such generation facility was placed in service on the public utility's books and the effective date of base rates in such proceeding. A rate adjustment mechanism authorized pursuant to this section shall be permitted to remain in effect for a period not to exceed six years.

(B) If a public utility implements a rate adjustment mechanism pursuant to this paragraph and subsequently terminates the initiative to acquire a stake in the generating facility, the commission shall have the authority, after a hearing is held on the matter, to order the public utility to refund customers any amounts collected through such rate adjustment mechanism.

(C) A public utility shall be authorized to implement a rate adjustment mechanism pursuant to this paragraph until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to implement a rate adjustment mechanism pursuant to this paragraph until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When considering and making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the rate adjustment mechanism authorized pursuant to this paragraph. If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from implementing a rate adjustment mechanism after December 31, 2030, and shall not otherwise affect or terminate any rate adjustment mechanism implemented by the public utility pursuant to this section or any regulatory or ratemaking treatment of such rate adjustment mechanism.

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

~~(6)~~(8) If the commission fails to issue a determination within ~~180~~ 240 days of the date a petition for a determination of rate-making principles and treatment is filed, the rate-making principles and treatment proposed by the petitioning public utility will be deemed to have been approved by the commission and shall be binding for rate-making purposes during the useful life of the generating facility, during the term of the contract or during the period when the cost of the retired or abandoned generating facility is reflected in customer rates.

(d) (1) It is the intent of the legislature that when a public utility files a petition for a determination of ratemaking principles and treatment pursuant to subsection (b) or (c), consistent with the state

corporation commission's customary practices, the commission shall:

(A) Issue a determination on such petition in an expeditious manner; and

(B) when circumstances allow, attempt to issue such determination in a period of time that is less than the 240-day deadline to issue such determination established pursuant to subsection (b) or (c).

(2) In furtherance of such legislative intent, a public utility that intends to file a petition for a determination of ratemaking principles and treatment pursuant to this section shall provide notice to the commission of such public utility's intent to file such petition not less than 30 days before filing a petition pursuant to this section. Upon receipt of such notice, the commission shall provide notice of the public utility's intent to file a petition pursuant to this section to each person or entity that was a party to or an intervenor in the public utility's most recently concluded base rate case.

(3) In any proceeding conducted pursuant to this section, any application for intervention in such proceeding shall be submitted not later than 10 days after the public utility's filing of a petition for a determination of ratemaking principles and treatment. The commission shall adopt a procedural schedule for the proceeding not later than 30 days after a public utility files a petition for a determination of ratemaking principles and treatment pursuant to this section.

(e) The public utility shall have one year from the effective date of the determination of the commission to notify the commission whether it will ~~construct or participate in the construction of~~ acquire a stake in the generating or transmission facility, whether it will perform under terms of the contract or whether it will retire or abandon the generating facility.

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

*~~(f)~~(g) If the public utility notifies the commission under subsection ~~(d)~~ (e) that it will ~~construct or participate~~ acquire a stake in a generating facility or *participate in a purchase power contract* and subsequently does not, or that it will retire or abandon a generating facility and subsequently does not, it will be required to notify the commission immediately *in the proceeding it initiated pursuant to this section* and ~~file an alternative supply plan with the commission pursuant to subsection (c) within 90 days~~ provide notification of a change in the utility's preferred resource plan as required by commission order.*

(h) For nuclear powered and coal-fired electric generating facilities, if determined by the commission to be just, reasonable and necessary for the provision of sufficient and efficient service, an electric public utility shall be permitted to:

(1) Retain such facilities in such utility's rate base;

(2) recover expenses associated with the operation of such facilities that remain in service to provide greater certainty that generating capacity will be available to provide essential service to customers, including during extreme weather events; and

(3) recover any portion of such utility's rate base and prudently incurred expenses necessary for such facilities:

(A) *To operate at a low-capacity factor; or*
(B) *that are offline during normal operating conditions and providing capacity only.*

(i) *The commission shall prepare and submit to the legislature by December 1 of each year an annual report based on the preceding calendar year that provides:*

(1) *The number of requests by utilities to retire electric generating units in the state, the nameplate capacity of each of those units and whether the request was approved or denied by the commission;*

(2) *the impact of any commission-approved retirement of an electric generating unit on the:*

(A) *Utility's and state's generation capacity by fuel type;*

(B) *required capacity reserve margins for the utility and the overall capacity reserve margin within the state;*

(C) *utility's need for capacity additions or expansions at new or existing facilities as a result of the retirement; and*

(D) *utility's need for additional power or capacity reserve arrangements; and*

(3) *whether the retirement resulted in stranded costs for ratepayers that will be recovered by the utility through securitization or some other charge on customer bills.*

(j) *The provisions of subsection (c)(4) shall expire on July 1, 2034.*

Sec. 5. K.S.A. 66-1264 is hereby amended to read as follows: 66-1264. As used in the net metering and easy connection act:

(a) "Commission" means the state corporation commission.

(b) "Customer-generator" means the owner or operator of a net metered facility ~~which~~ that:

(1) Is powered by a renewable energy resource;

(2) is located on a premises owned, operated, leased or otherwise controlled by the customer-generator;

(3) is interconnected and operates in parallel phase and synchronization with an affected utility and is in compliance with the standards established by the affected utility;

(4) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements *such that the customer-generator will fully consume the energy output or will deliver the remaining energy output and all other services to the utility; and*

(5) contains ~~a~~ *an underwriter laboratories listed* mechanism, approved by the utility, that automatically disables the unit and interrupts the flow of electricity back onto the ~~supplier's~~ utility's electricity lines in the event that service to the customer-generator is interrupted.

(c) "Export" means power that flows from a customer-generator's electrical system through a customer's billing meter and onto the utility's electricity lines.

(d) "Generating capacity" means the maximum amount of alternating current power that a customer generator's net metered system can produce.

(e) "Peak demand" ~~shall have the meaning ascribed thereto~~ means the same as defined in K.S.A. 66-1257, and amendments thereto.

(f) "Permission to operate" means the operational date of the customer-generator's net metered facility.

(~~d~~)g) "Renewable energy resources" ~~shall have the meaning ascribed thereto~~ means the same as defined in K.S.A. 66-1257, and amendments thereto.

(h) "Supplied" means power that flows from the utility's electricity lines through a customer's billing meter and into a customer-generator's electrical system.

~~(e)~~(i) "Utility" means investor-owned electric utility.

(j) "Witness test" means a representative of the utility is on-site to measure or verify a specific setting or operational condition.

Sec. 6. K.S.A. 66-1265 is hereby amended to read as follows: 66-1265. Each utility shall:

(a) (1) *Except as provided in paragraph (2), make net metering available to customer-generators who are in good standing with the utility on a first-come, first-served basis, until the total rated generating capacity as approved by the utility of all net metered systems equals or exceeds one:*

(A) *Commencing July 1, 2024, percent 2% of the utility's peak demand during the previous year;*

(B) *commencing July 1, 2025, 3% of the utility's peak demand during the previous year;*

(C) *commencing July 1, 2026, 4% of the utility's peak demand during the previous year; and*

(D) *commencing July 1, 2027, and each year thereafter, 5% of the utility's historic highest annual peak demand since 2014.*

(2) The commission may increase the total rated generating capacity of all net metered systems to an amount above ~~one percent~~ 5% after conducting a hearing pursuant to K.S.A. 66-101d, and amendments thereto;

(b) provide an appropriate class bidirectional meter to the customer-generator at no charge, but may charge the customer-generator for the cost of any additional metering or distribution equipment necessary to accommodate the customer-generator's facility;

(c) disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the utility;

(d) for any customer-generator ~~which~~ that began operating its renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014, offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(e) for any customer-generator ~~which~~ that began operating its renewable energy resource under an interconnect agreement with the utility on or after July 1, 2014, have the option to propose, within an appropriate rate proceeding, the application of time-of-use rates, minimum bills, *incentive programs* or other rate structures that would apply to all such customer-generators prospectively.

Sec. 7. K.S.A. 66-1266 is hereby amended to read as follows: 66-1266. (a) Prior to January 1, 2030, for any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated~~ *exported* by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility in accordance with normal practices for customers in the same rate class.

(2) If such customer-generator ~~generates~~ *exports* electricity in excess of the ~~customer-generator's monthly consumption~~ *electricity supplied by the utility*, all such net excess ~~energy~~ (NEG) generation, expressed in kilowatt-hours, shall be carried forward from month-to-month and credited at a ratio of one-to-one against the ~~customer-~~

~~generator's energy consumption~~ *electricity supplied by the utility*, expressed in kilowatt-hours, in subsequent months.

(3) Any interconnect agreement between such customer-generator and a utility and all such ~~NEG generated~~ *net excess generation exported* under such agreement shall be ~~transferrable~~ *transferable* and continue in place until January 1, 2030, regardless of whether there is a change in ownership of the property ~~on which~~ *where* the renewable energy resource is located.

(4) Any ~~NEG resulting~~ *net excess generation exported* from renewable energy resources that are installed on and after July 1, 2014, but are part of an installation of a renewable energy resource that was operating prior to July 1, 2014, shall be carried forward and credited to the customer as if such resources had begun operation prior to July 1, 2014.

(5) Any net excess generation credit remaining in a net-metering customer's account on March 31 of each year shall expire.

(b) For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2014:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated~~ *exported* by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility.

(2) If such customer-generator ~~generates~~ *exports* electricity in excess of the ~~customer-generator's monthly consumption~~ *electricity supplied by the utility*, all such ~~NEG~~ *net excess generation* remaining in such customer-generator's account at the end of each billing period shall be credited to the customer at a rate of *at least* 100% of the utility's monthly system average cost of energy per kilowatt hour.

(c) *Except as otherwise provided in subsection (d)*, on and after January 1, 2030, for all customer-generators, regardless of when such customer-generators entered into an interconnect agreement with the utility:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated~~ *exported* by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility; and

(2) if such customer-generator ~~generates~~ *exports* electricity in excess of the ~~customer-generator's monthly consumption~~ *electricity supplied by the utility*, all such ~~NEG~~ *net excess generation* remaining in a customer-generator's account at the end of each billing period shall be credited to the customer at a rate of *at least* 100% of the utility's monthly system average cost of energy per kilowatt hour.

(d) *For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2024, and receives service on an optional time-varying rate:*

(1) *The utility shall measure the net electrical energy exported or supplied during the billing period for each of the time of use periods established by the applicable time-varying rate schedule that applies to the customer-generator's rate class in accordance with normal metering practices for customers that take service on time-varying rates in that same rate class;*

(2) *electricity supplied by the utility shall be netted against the electricity exported by the customer-generator during each applicable time of use period;*

(3) *if the electricity supplied by the utility exceeds the electricity exported by the customer-generator during any time of use period, the customer-generator shall be billed for the net electricity supplied by*

the utility in each such time of use period as well as all other charges as such charges are applied to non-customer-generators in the same rate class; and

(4) if the electricity exported by the customer-generator exceeds the electricity supplied by the utility during any time of use period, the customer-generator shall be credited at a rate of at least 100% of the utility's monthly system average cost of energy per kilowatt hour, with any net credit, and net of all other charges as such charges are applied to non-customer-generators in the same rate class, applied to the next billing period.

Sec. 8. K.S.A. 66-1267 is hereby amended to read as follows: 66-1267. (a) For customer-generators that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:

(1) Such utility shall allow:

(A) Residential customer-generators to ~~generate~~ export electricity subject to net metering up to 25 kilowatts; and

(B) commercial, industrial, school, local government, state government, federal government, agricultural and institutional customer-generators to ~~generate~~ export electricity subject to net metering up to 200 kilowatts.

(2) Nothing in this act shall be construed to prevent such customer-generators from installing additional renewable energy resources after July 1, 2014, that will generate electricity pursuant to the restrictions contained in paragraph (1).

(b) For customer-generators that begin operating a renewable energy resource under an interconnect agreement with the utility after July 1, 2014, such utility shall allow:

~~(1) All residential customer-generators to generate electricity subject to net metering up to 15 kilowatts;~~

~~(2) commercial, industrial, religious institution, local government, state government, federal government, agricultural and industrial customer-generators to generate electricity subject to net metering up to 100 kilowatts, unless otherwise agreed to by the utility and the customer-generator; and~~

~~(3) school customer-generators to generate electricity subject to net metering up to 150 kilowatts. For the purpose of this section, "school" means any postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto, or any public or private school which provides instruction for students enrolled in grade kindergarten or grades one through 12 customer-generators to export electricity subject to net metering up to 150 kilowatts alternating current.~~

(c) Customer-generators shall appropriately size their ~~generation~~ export capacity to their expected load as follows:

(1) (A) (i) Divide the customer-generator's historic consumption in kilowatt-hours for the previous 12-month period by 8,760; and

(ii) divide the quotient calculated pursuant to paragraph (1)(A)(i) by a capacity factor of 0.144; or

(B) if the customer-generator does not have historic consumption data that adequately reflects the customer's consumption at such premises, the customer-generator's historic consumption for the previous 12-month period shall be 7.15 kilowatt-hours per square foot of conditioned space; and

(2) round up the quotient calculated pursuant to paragraph (1)(A) (i) or the amount determined pursuant to paragraph (1)(B) to the nearest standard size as follows:

(A) Between two kilowatts alternating current power and 20 kilowatts alternating current power, round up to the nearest two

kilowatts alternating current power increment; and

(B) between 20 kilowatts alternating current power and 150 kilowatts alternating current power, round up to the nearest five kilowatts alternating current power increment.

(d) For customer-generators that operate a renewable energy resource under an interconnect agreement with the affected utility on or after January 1, 2026:

(1) The generating capacity of a customer-generator's renewable energy resource as approved by the affected utility shall not exceed export capacity by more than 50%; and

(2) energy storage capacity, including electric vehicles or other portable energy storage devices, shall not be included in any sizing formulas unless the energy storage device has the ability to add export capacity and is not part of an export limited system.

(e) For customer-generators that operate a generation resource designed to export an amount of power that differs from the system's generating capacity:

(1) The customer-generator shall own and maintain any necessary export limiting device;

(2) protections shall be in place to restrict the export limiting device settings to qualified persons;

(3) the utility shall have the option to require a witness test of the export limiting device's function or set points prior to granting permission to operate;

(4) the export capacity of the system shall not be increased without prior approval from the utility;

(5) the customer-generator shall allow the utility to perform periodic witness testing of the export limiting device's function or settings upon request;

(6) if the export limiting device's settings are incorrect or if the device fails to limit the export of power below the designed export capacity for more than 15 minutes in any single event, the customer-generator shall cease operation of the system until repair or reprogramming of the limiting device is completed; and

(7) the utility shall not restrict the brand or model of the limiting device if the device is approved by the generator's manufacturer or is underwriter laboratories listed to perform such operations in conjunction with the customer-generator's system.

Sec. 9. K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and K.S.A. 2023 Supp. 66-101j and 66-1239 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.