

As Amended by House Committee

Session of 2019

Substitute for SENATE BILL No. 69

By Committee on Utilities

3-12

1 AN ACT concerning electric utilities; requiring a study of electric rates;
2 relating to the legislative coordinating council; state corporation
3 commission.
4

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

6 Section 1. (a) To provide information that may assist future legislative
7 and regulatory efforts to craft forward-looking electric policy that leads to
8 regionally competitive electric rates and reliable electric service, the
9 legislative coordinating council shall authorize a study of the retail rates of
10 Kansas electric public utilities. Such utilities shall include electric public
11 utilities as defined in K.S.A. 66-101a, and amendments thereto, electric
12 cooperative public utilities exempt from state corporation commission
13 jurisdiction pursuant to K.S.A. 66-104d, and amendments thereto, and the
14 three largest municipally owned or operated electric utilities by customer
15 count.

16 (b) (1) To conduct the study, the legislative coordinating council shall
17 select one or more independent organizations, **and notwithstanding the**
18 **provisions of K.S.A. 46-1202, and amendments thereto, such selection**
19 **shall be made** by an affirmative vote of at least five members of the
20 council including at least one affirmative vote from a member of the
21 minority party, that have experience with evaluating electric utilities and
22 include input from residential, commercial and industrial customers,
23 electric utilities and other energy stakeholders.

24 (2) To facilitate this study, any organization selected by the legislative
25 coordinating council may request data from any electric utility identified
26 in subsection (a) and must allow at least 14 days for the utility to respond.
27 Prior to making a request for information of any electric utility, any
28 organization selected by the council shall enter into a confidentiality
29 agreement with the electric utility to assure nondisclosure of confidential
30 business information.

31 (3) The state corporation commission shall assist any organization hired
32 by the legislative coordinating council by sharing subject matter
33 knowledge regarding Kansas electric utilities and assisting with the
34 procurement of any necessary information requested by such organization.
35 Such requests shall be subject to the provisions of the Kansas open records
36 act, the judicial review act, the Kansas administrative procedures act and

1 any other law or regulations applicable to the state corporation
2 commission. Any dispute regarding the provision of information, including
3 the establishment of reasonable protections for the treatment of
4 confidential information, shall be decided by the commission.

5 (4) The study shall be completed and delivered to the state
6 corporation commission in two parts. The first part of the study ~~will~~ **shall**
7 be comprised of the issues identified in subsections (c)(1) and (2) and shall
8 be completed **and made available on the commission's website** by
9 January 8, 2020, and the second part of the study ~~will~~ **shall** be comprised
10 of the issues identified in subsection (c)(3) and shall be completed **and**
11 **made available on the commission's website** by July 1, 2020. ~~The study~~
12 ~~shall be made available by the commission on its website~~ **The commission**
13 **shall submit the first part of the study to the house committee on**
14 **energy, utilities and telecommunications and the senate committee on**
15 **utilities by January 14, 2020, and shall submit the second part of the**
16 **study to such committees by January 12, 2021.**

17 (5) The costs of the study shall be paid by the state corporation
18 commission from an assessment of expenses pursuant to K.S.A. 66-1502,
19 and amendments thereto, upon the utilities that are subject to the study,
20 regardless of whether such utilities are subject to the jurisdiction of the
21 commission.

22 (c) The study authorized by the legislative coordinating council shall
23 address:

24 (1) The effectiveness of current Kansas ratemaking practices,
25 including whether:

26 (A) Current ratemaking adequately attracts needed utility capital
27 investments and adequately discourages unnecessary capital investments
28 in Kansas;

29 (B) current ratemaking appropriately balances utility profits with the
30 public interest objectives of achieving competitive rates over time while
31 providing the best practicable combination of price, quality and service;

32 (C) Kansas electric public utilities are currently recovering from
33 Kansas retail electric ratepayers the full or partial cost, including a return
34 on investment, of any investments that are no longer fully used or required
35 to be used in service to the public within the state of Kansas, including, but
36 not limited to, generation capacity investments;

37 (D) the investments that Kansas electric public utilities have made in
38 electric transmission and renewable generation resources have contributed,
39 and to what extent, to the obsolescence of all the other generation facility
40 investments of such utilities;

41 (E) allowing Kansas investor-owned electric public utilities to
42 recover costs through surcharges and riders, without a comprehensive
43 ratemaking process, has unnecessarily contributed to rising wholesale and

1 retail electricity prices;

2 (F) the current ratemaking processes for Kansas electric cooperatives
3 and municipal utilities are in the public interest; and

4 (G) electricity providers in surrounding states are subject to similar
5 state laws, regulations and oversight to such requirements in Kansas;

6 (2) options available to the state corporation commission and the
7 Kansas legislature to affect Kansas retail electricity prices to become
8 regionally competitive while providing the best practicable combination of
9 price, quality and service, including reviewing whether:

10 (A) Capital expenditures and operating expenses of Kansas electric
11 public utilities can be managed to achieve and sustain competitive retail
12 rates while maintaining adequate and reliable service;

13 (B) any performance-based regulation, economic development
14 initiatives, price-cap regulation or other non-traditional ratemaking
15 methods should be considered to reduce retail electric rates or the level of
16 increase of any rate;

17 (C) competitive markets for retail electricity can benefit all Kansas
18 consumers;

19 (D) further investments in energy efficiency and renewable energy,
20 including revenue decoupling and renewable energy incentives, can
21 benefit all Kansas consumers;

22 (E) securitized ratepayer-backed bonds can benefit utilities and
23 ratepayers by reducing investment risk, facilitating the recovery of certain
24 stranded costs from under-utilized or otherwise obsolete generating and
25 other facilities and lowering retail electric rates, and assisting in the
26 transition to new technologies, including a review of whether securitized
27 bonds could be effectively utilized by Kansas utilities;

28 (F) Kansas sales tax, property taxes, assessment rates and other fees
29 and taxes on utilities are comparable to other states in the region and how
30 such taxes and fees impact the competitiveness of utility rates;

31 (G) Kansas electric utilities and the state corporation commission can
32 reduce the cost impacts of decisions of the southwest power pool by
33 advocating for certain positions through the southwest power pool's
34 stakeholder and regional state committee processes, including an
35 identification of current and future issues most likely to impact Kansas
36 retail electric rates;

37 (H) any other regulatory actions are available to the state corporation
38 commission to manage or reduce retail electric rates; and

39 (I) legislative enactments can address retail electric rate escalation in
40 Kansas; and

41 (3) other consequential issues materially affecting Kansas electricity
42 rates, including:

43 (A) Whether any costs incurred by Kansas electric public utilities to

1 build and operate electric vehicle charging stations, including any
2 necessary upgrades to distribution infrastructure, are recovered from
3 ratepayers not using electric vehicle charging services;

4 (B) how rates for electric vehicle charging services should be
5 designed to ensure such rates are just and reasonable and not subsidized by
6 other utility customers;

7 (C) the potential effects of deregulating electric vehicle charging
8 services in Kansas, including whether deregulation would ensure that
9 electric vehicle charging services are not subsidized by public utility
10 ratepayers not using electric vehicle charging services;

11 (D) whether Kansas consumers could benefit from improved access
12 to advanced energy solutions, including micro grids, electric vehicles,
13 charging stations, customer generation, battery storage and transactive
14 energy;

15 (E) the extent to which transmission investments by Kansas electric
16 public utilities have impacted retail rates, including any incremental
17 regional transmission costs incurred by Kansas ratepayers for transmission
18 investments in other states, and whether such costs have been fully offset
19 by financial benefits such as improved access to low-cost renewable
20 energy and wholesale energy markets;

21 (F) the costs and benefits incurred by Kansas ratepayers for
22 transmission investments in Kansas, used to export energy out of Kansas;

23 (G) how rate increases or the associated rising costs of Kansas
24 investor-owned electric public utilities impact the retail electric rates of
25 Kansas electric cooperatives and municipal utilities;

26 (H) whether retail electric rates in Kansas are a material barrier to
27 economic development in Kansas;

28 (I) the impact of contract rates with commercial and industrial
29 customers and economic development rates on other customer classes,
30 including whether expanded utilization of such approaches can benefit all
31 customers over time;

32 (J) whether Kansas electric public utilities recover their costs of
33 serving customers from each customer class on the basis of cost causation;

34 (K) how cyber and physical security and grid stabilization efforts
35 have affected, or are projected to affect, electric public utility rates;

36 (L) the value of a utility integrated resource planning process that
37 requires state regulatory approval; and

38 (M) economic analysis of the price fluctuations of generation fuels on
39 the cost of electricity.

40 Sec. 2. This act shall take effect and be in force from and after its
41 publication in the Kansas register.