

**HOUSE BILL No. 2527**

By Committee on Energy, Utilities and Telecommunications

Requested by Laura Lutz, on behalf of Evergy

1-18

1 AN ACT concerning public utilities; relating to the state corporation  
2 commission; ~~authorizing cost recovery mechanisms for certain rate~~  
3 ~~base additions; requiring the commission to evaluate the capital~~  
4 ~~structure of certain public utilities without regard for entities affiliated~~  
5 ~~with such utility; authorizing certain public utilities to elect a specific~~  
6 ~~return on equity in rate proceedings; increasing the peak demand~~  
7 ~~threshold and discount term for public utilities to defer to a~~  
8 **regulatory asset and recover depreciation expenses relating to**  
9 **certain rate base additions; establishing a cap on such cost**  
10 **recovery and limiting the time that such cost recovery may be**  
11 **implemented by a public utility; authorizing new economic**  
12 ~~development electric rates for large facilities; removing requirements~~  
13 ~~for tracking and deferral to a regulatory asset of revenue reductions~~  
14 ~~caused by economic development rates~~ **limiting the time that such**  
15 **economic development rates for large facilities may be**  
16 **implemented by a public utility; prohibiting any revenue lost**  
17 **through the implementation of economic development rates from**  
18 **being imputed into the electric public utility's revenue**  
19 **requirement; authorizing a rate adjustment mechanism for the**  
20 ~~construction of new gas-fired electric generating facilities; limiting the~~  
21 ~~time that such rate adjustment mechanism may be implemented by~~  
22 ~~a public utility; extending the timeline for the commission to make~~  
23 ~~a determination of ratemaking principles and treatment prior to a~~  
24 ~~public utility constructing or acquiring a stake in an electric~~  
25 ~~generation or transmission facility; establishing procedural~~  
26 ~~requirements to support the timely completion of such proceedings;~~  
27 ~~amending K.S.A. 2023 Supp. 66-101j and 66-1239 and repealing the~~  
28 ~~existing sections.~~

29  
30 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

1 amendments thereto.

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

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

11 (5) "Weighted average cost of capital" means the return on rate base  
12 used to determine the revenue requirement **or that was approved to be**  
13 **used for regulatory accounting purposes** in the public utility's most  
14 recently ~~completed~~ **ordered return on rate base in a** general rate  
15 proceeding ~~except that in the absence of any commission determination~~  
16 ~~made on or after July 1, 2021, and prior to July 1, 2024, to establish the~~  
17 ~~return on rate base for such public utility, the weighted average cost of~~  
18 ~~capital shall be determined using the public utility's actual capital structure~~  
19 ~~as of December 31, 2023, excluding short-term debt, the public utility's~~  
20 ~~actual cost of long-term debt and preferred stock as of December 31, 2023,~~  
21 ~~and a cost of common equity of 9.5%.~~

22 (b) Notwithstanding any other provision of law except K.S.A. 66-  
23 1239(b)(5), and amendments thereto, commencing on July 1, 2024, a  
24 public utility shall defer to a regulatory asset ~~100%~~ **90%** of all  
25 depreciation expense and return associated with all qualifying electric  
26 plants recorded to plant-in-service on the utility's books if the public utility  
27 has provided notice to the commission of the public utility's election to  
28 make such deferrals pursuant to subsection (f)(1). **Such deferral shall**  
29 **begin on July 1, 2024, if the public utility has notified the commission**  
30 **of the public utility's election to make such deferral by such date or**  
31 **shall begin on the date that such election is made if such election is**  
32 **made after July 1, 2024.** Except as provided in subsection (c), **subsection**  
33 **(f)(2) and the provisions of section 2, and amendments thereto,** in each  
34 general rate proceeding concluded after August 28, 2018, the balance of  
35 the regulatory asset as of the rate base cutoff date shall be included in the  
36 public utility's rate base without any offset, reduction or adjustment based  
37 upon consideration of any other factor with the regulatory asset balance  
38 arising from deferrals associated with qualifying electric plants placed in  
39 service after the rate base cutoff date to be included in rate base in the next  
40 general rate proceeding.

41 (c) The regulatory asset balances arising under this section shall be  
42 adjusted to reflect any prudence disallowances ordered by the commission.  
43 This section shall not be construed to affect existing law with respect to

1 the burdens of production and persuasion in general rate proceedings for  
2 rate base additions.

3 (d) Parts of regulatory asset balances created under this section that  
4 are not included in rate base shall include carrying costs at the public  
5 utility's weighted average cost of capital, plus applicable federal, state and  
6 local income or excise taxes. Regulatory asset balances arising under this  
7 section that are included in rate base shall be recovered in rates through a  
8 20-year amortization beginning on the date new rates reflecting such  
9 amortization take effect.

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

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

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

23 (2) A public utility that makes such election shall be authorized to  
24 make the deferrals authorized by this section **until December 31, 2030,**  
25 **except that, upon application by such public utility, the commission**  
26 **may authorize the public utility to continue to make the deferrals**  
27 **authorized by this section until December 31, 2036. Any such**  
28 **application shall be filed with the commission on or before December**  
29 **31, 2028. The commission shall issue a determination on an**  
30 **application filed pursuant to this subsection within 240 days of the**  
31 **date that such application is filed. If requested by the public utility, an**  
32 **intervenor in the application docket or commission staff, the**  
33 **commission shall hold a hearing on such application. When making a**  
34 **determination upon such application, the commission may consider**  
35 **factors that the commission deems just and reasonable and condition**  
36 **the commission's determination on any factors that are relevant to the**  
37 **deferrals authorized pursuant to this section. If the commission denies**  
38 **the public utility's application, such denial shall only act to prohibit**  
39 **the public utility from making such deferrals after December 31, 2030,**  
40 **and shall not otherwise affect or terminate any deferral that is**  
41 **authorized to be made pursuant to this section or any regulatory or**  
42 **ratemaking treatment of the regulatory assets arising from such**  
43 **deferrals.**

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

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

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

8       (2) "Large public utility" means a public utility as defined in K.S.A.  
9 66-104, and amendments thereto, that serves not less than 20,000 retail  
10 customers in Kansas on July 1, 2024.

11       ~~(b) In any general rate proceeding filed pursuant to K.S.A. 66-117,~~  
12 ~~and amendments thereto, the commission shall evaluate any large public~~  
13 ~~utility on a stand-alone basis and, for purposes of establishing the revenue~~  
14 ~~requirement, utilize such public utility's test year capital structure, without~~  
15 ~~regard to the capital structure or investments of any other entities with~~  
16 ~~which such public utility may be affiliated, unless the commission finds~~  
17 ~~based on evidence in the record that the large public utility's parent~~  
18 ~~company does not hold an investment-grade credit rating from at least one~~  
19 ~~nationally recognized credit rating agency. The capital structure shall~~  
20 ~~include the relative proportions of common equity, long-term debt and~~  
21 ~~preferred stock consistent with the public utility's test year.~~

22       ~~(e) (1) In any general rate proceeding filed pursuant to K.S.A. 66-117,~~  
23 ~~and amendments thereto, a large public utility may elect to base its return~~  
24 ~~on equity on the fully-litigated case 12-month average from the most~~  
25 ~~recent report issued in the regulatory research associates regulatory focus~~  
26 ~~publication, or its successor publication, for the applicable utility type. In~~  
27 ~~the case of large public utilities that are also electric public utilities, fully-~~  
28 ~~litigated observations from cases for electric utilities in restructured~~  
29 ~~jurisdictions or special rider or non-base rate cases in other jurisdictions~~  
30 ~~shall be excluded from the average. If the large public utility elects to use~~  
31 ~~such return on equity, such election shall be conclusive and binding on the~~  
32 ~~commission for purposes of determining the revenue requirement and,~~  
33 ~~except as provided in paragraph (2), no other evidence of return on equity~~  
34 ~~shall be admitted.~~

35       ~~(2) The commission may establish pursuant to a commission order,~~  
36 ~~operational metrics for large public utilities which, if achieved, may result~~  
37 ~~in an adjustment of up to 25 basis points above or below the regulatory~~  
38 ~~research associates regulatory focus publication, or its successor~~  
39 ~~publication, to the fully-litigated case average return on equity determined~~  
40 ~~pursuant to paragraph (1), where dictated by customer service, operations,~~  
41 ~~changing economic or market conditions or other relevant factors.~~

42       ~~(d) The commission shall consider all admissible evidence on return~~  
43 ~~on equity and select a reasonable return on equity for a large public utility~~

1 that does not elect the return on equity treatment in subsection (e)"Public  
2 utility" means the same as defined in K.S.A. 66-104, and amendments  
3 thereto.

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

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

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

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

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

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

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

41 Sec. 3. K.S.A. 2023 Supp. 66-101j is hereby amended to read as  
42 follows: 66-101j. (a) Notwithstanding the provisions of K.S.A. 66-101b or  
43 66-109, and amendments thereto, the commission shall authorize an

1 electric public utility to implement economic development rate schedules  
2 that provide discounts from otherwise applicable standard rates for electric  
3 service for new or expanded facilities of industrial or commercial  
4 customers that are not in the business of selling or providing goods or  
5 services directly to the general public. To be eligible for such discounts,  
6 such customer shall:

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

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

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

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

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

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

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

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

30 (ii) the level of capital investment;

31 (iii) additional off-peak usage;

32 (iv) curtailable or interruptible load;

33 (v) new industry or technology; or

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

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

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

43 (B) **the facility shall, once first achieved, maintain the peak**

1 **demand and load factor for the remaining duration of the discounted**  
 2 **rate; or**

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

8 (A) An annual load factor that is reasonably projected to be at least  
 9 55% within two years of the date the customer first receives service under  
 10 the discounted rate; and

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

13 (c) The discount authorized by this section shall be determined by  
 14 reducing otherwise applicable charges associated with the rate schedule  
 15 applicable to the new or expanded existing facility by a fixed percentage  
 16 for each year of service under the discount for a period of up to:

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

19 (2) 10 years to facilities that qualify pursuant to subsection ~~(b)(2)~~ **(b)**  
 20 **(3).**

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

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

26 **(2) For discounts to facilities that qualify pursuant to subsection**  
 27 **(b)(2), the average of the annual discount percentages shall not exceed**  
 28 **40%, except that such discounts may be between 20% and 50% in any**  
 29 **year of such five-year period.**

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

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

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

39 ~~(d)(e) In each general rate proceeding concluded after the effective~~  
 40 ~~date of this section, the commission shall allocate the reduced level of~~  
 41 ~~revenues arising from the discounted rates provided for in this section~~  
 42 ~~through the application of a uniform percentage adjustment to the revenue~~  
 43 ~~requirement responsibility for all customer classes of the electric public~~

1 utility providing such discounted rate, including the classes with customers  
2 that qualify for discounts under this section, except for rates for service  
3 provided to customers under contract rates either approved by the  
4 commission pursuant to K.S.A. 2023 Supp. 66-101i, and amendments  
5 thereto, or the commission's general ratemaking authority **(1) Except as**  
6 **provided in paragraph (2), on and after July 1, 2024, the difference in**  
7 **revenues generated by applying the discounted rates authorized**  
8 **pursuant to this section and the revenues that would have been**  
9 **generated without such discounts shall not be imputed into the electric**  
10 **public utility's revenue requirement.**

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

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

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

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

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

- 40 (1) Number of entities with such discounts;
- 41 (2) number of entities with increased load;
- 42 (3) number of entities with decreased load;
- 43 (4) aggregate load and change in aggregate load on an annual basis;



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

9 (h) **An electric public utility shall be authorized to only  
10 implement discounted rates for facilities that qualify for such  
11 discounted rates pursuant to subsection (b)(3) until December 31,  
12 2030, except that, upon application by such public utility, the  
13 commission may authorize the public utility to continue to implement  
14 such discounted rates for facilities that qualify for such discounted  
15 rates pursuant to subsection (b)(3) until December 31, 2036. Any such  
16 application shall be filed with the commission on or before December  
17 31, 2028. The commission shall issue a determination on an  
18 application filed pursuant to this subsection within 240 days of the  
19 date that such application is filed. If requested by the public utility, an  
20 intervenor in the application docket or commission staff, the  
21 commission shall hold a hearing on such application. When  
22 considering and making a determination upon such application, the  
23 commission may consider factors that the commission deems just and  
24 reasonable and condition the commission's determination on any  
25 factors that are relevant to the discounted rates for facilities that  
26 qualify for such discounted rates pursuant to subsection (b)(3). If the  
27 commission denies the public utility's application, such denial shall  
28 only act to prohibit the public utility from implementing discounted  
29 rates for facilities that qualify for such discounted rates pursuant to  
30 subsection (b)(3) after December 31, 2030, and shall not otherwise  
31 affect or terminate any discounted rates implemented by the public  
32 utility pursuant to this section or any regulatory or ratemaking  
33 treatment of such discounted rates.**

34 (i) For the purposes of this section:

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

39 (2) "expanded facility" means a separately metered facility of the  
40 customer, unless the utility determines that the additional costs of separate  
41 metering of such facility would exceed the associated benefits or that it  
42 would be difficult or impractical to install or read the meter, that has not  
43 received service in the electric utility's certified service territory in the

1 previous 12 months; and

2 (3) "new facility" means a building of the customer that has not  
3 received electric service in the electric utility's certified service territory in  
4 the previous 12 months.

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

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

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

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

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

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

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

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

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

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

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

40 (4) If the commission fails to issue a determination within ~~180~~ **240**  
41 days of the date a petition for a determination of rate-making principles  
42 and treatment is filed, the rate-making principles and treatment proposed  
43 by the petitioning public utility will be deemed to have been approved by

1 the commission and shall be binding for rate-making purposes during the  
2 useful life of the transmission facility.

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

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

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

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

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

33 (3) In considering the public utility's ~~supply preferred plan and~~  
34 *resource acquisition strategy*, the commission may consider if the public  
35 utility issued a request for proposal from a wide audience of participants  
36 willing and able to meet the needs identified under the public utility's  
37 ~~generating supply preferred plan~~, and if the plan selected by the public  
38 utility is reasonable, reliable and efficient.

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

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

2 (B) retired or abandoned.

3 (5) **(A)** *With respect to a new gas-fired generating facility, unless the*  
4 *commission timely elects not to set forth ratemaking principles applicable*  
5 *in the future on the grounds that acquiring a stake in such a generating*  
6 *facility is not reasonable, then notwithstanding any other provision of law,*  
7 *the public utility shall be permitted to implement a new rate adjustment*  
8 *mechanism designed to recover the return on 100% of amounts recorded*  
9 *to construction work in progress on the public utility's books for the public*  
10 *utility's stake in such a generating facility, which shall not exceed the*  
11 **definitive cost estimate found reasonable by the commission in a**  
12 **proceeding conducted pursuant to this section for the public utility's**  
13 **acquisition of the public utility's stake in such generating facility,**  
14 **unless otherwise ordered by the commission in a subsequent**  
15 **proceeding, at the weighted average cost of capital without offset,**  
16 *adjustment or reduction for any other issue or consideration, except that*  
17 *such return shall be in lieu of any otherwise applicable allowance for*  
18 *funds used during construction that would have accrued from and after the*  
19 *effective date of **inclusion of construction work in progress** in such rate*  
20 *adjustment mechanism. A rate adjustment mechanism authorized pursuant*  
21 *to this section shall become effective not sooner than 365 days after*  
22 *construction of the generation facility begins and within ~~30~~ **60** days of the*  
23 *filing for the establishment of such mechanism by the public utility. As*  
24 *construction of the public utility's stake in such a generating facility*  
25 *continues and the balance of construction work in progress grows, the rate*  
26 *adjustment mechanism in effect shall be subject to periodic increases,*  
27 *without adjustment, offset or reduction for any other issue or*  
28 *consideration, except that such periodic increases shall not occur more*  
29 *frequently than once every six months. Except as provided in this section,*  
30 *the public utility's customers shall be charged pursuant to such rate*  
31 *adjustment mechanism until such time as new base rates reflecting the*  
32 *public utility's investment in such generating facility take effect, with such*  
33 *base rates to include **a deferral for depreciation expense incurred and***  
34 *carrying costs on any unrecovered portion of such investment at the public*  
35 *utility's weighted average cost of capital as determined in the rate-making*  
36 *proceeding setting such base rates that occurred between the date such*  
37 *generation facility was placed in service on the public utility's books and*  
38 *the effective date of base rates in such proceeding. A rate adjustment*  
39 *mechanism authorized pursuant to this section shall be permitted to*  
40 *remain in effect for a period not to exceed six years.*

41 **(B)** **If a public utility implements a rate adjustment mechanism**  
42 **pursuant to this paragraph and subsequently terminates the initiative**  
43 **to acquire a stake in the generating facility, the commission shall have**

1 the authority, after a hearing is held on the matter, to order the public  
2 utility to refund customers any amounts collected through such rate  
3 adjustment mechanism.

4 (C) A public utility shall be authorized to implement a rate  
5 adjustment mechanism pursuant to this paragraph until December 31,  
6 2030, except that, upon application by such public utility, the  
7 commission may authorize the public utility to continue to implement  
8 a rate adjustment mechanism pursuant to this paragraph until  
9 December 31, 2036. Any such application shall be filed with the  
10 commission on or before December 31, 2028. The commission shall  
11 issue a determination on an application filed pursuant to this  
12 subsection within 240 days of the date that such application is filed. If  
13 requested by the public utility, an intervenor in the application docket  
14 or commission staff, the commission shall hold a hearing on such  
15 application. When considering and making a determination upon such  
16 application, the commission may consider factors that the commission  
17 deems just and reasonable and condition the commission's  
18 determination on any factors that are relevant to the rate adjustment  
19 mechanism authorized pursuant to this paragraph. If the commission  
20 denies the public utility's application, such denial shall only act to  
21 prohibit the public utility from implementing a rate adjustment  
22 mechanism after December 31, 2030, and shall not otherwise affect or  
23 terminate any rate adjustment mechanism implemented by the public  
24 utility pursuant to this section or any regulatory or ratemaking  
25 treatment of such rate adjustment mechanism.

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

31 ~~(6)~~(7) If the commission fails to issue a determination within ~~180~~ 240  
32 days of the date a petition for a determination of rate-making principles  
33 and treatment is filed, the rate-making principles and treatment proposed  
34 by the petitioning public utility will be deemed to have been approved by  
35 the commission and shall be binding for rate-making purposes during the  
36 useful life of the generating facility, during the term of the contract or  
37 during the period when the cost of the retired or abandoned generating  
38 facility is reflected in customer rates.

39 (d) (1) It is the intent of the legislature that when a public utility  
40 files a petition for a determination of ratemaking principles and  
41 treatment pursuant to subsection (b) or (c), consistent with the state  
42 corporation commission's customary practices, the commission shall:

43 (A) Issue a determination on such petition in an expeditious

1 manner; and

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

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

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

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

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

37 ~~(f)(g)~~ If the public utility notifies the commission under subsection  
38 ~~(d)~~ (e) that it will ~~construct or participate~~ *acquire a stake* in a generating  
39 facility or *participate in a* purchase power contract and subsequently does  
40 not, or that it will retire or abandon a generating facility and subsequently  
41 does not, it will be required to notify the commission immediately *in the*  
42 *proceeding it initiated pursuant to this section* and ~~file an alternative~~  
43 ~~supply plan with the commission pursuant to subsection (e) within 90 days~~

1 *provide notification of a change in the utility's preferred resource plan as*  
2 *required by commission order.*

3       Sec. 5. K.S.A. 2023 Supp. 66-101j and 66-1239 are hereby repealed.

4       Sec. 6. This act shall take effect and be in force from and after its  
5 publication in the statute book.