Session of 2025

SENATE BILL No. 289

By Committee on Federal and State Affairs

3-4

AN ACT concerning public utilities; relating to economic development electric rates; requiring economic development electric rate discounts to cover the incremental and variable costs to serve customers that receive the discount; amending K.S.A. 2024 Supp. 66-101j and repealing the existing section.

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

Section 1. K.S.A. 2024 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 *that* 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;

(2) a peak demand that is reasonably projected to be at least 300 kilowatts within two years of the date *that* 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 *that* 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 25 megawatts within two years of the date *that* 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 *that* 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 exceed 20%, except that such discounts may be between 5% ~~to~~ *and* 30% in any year 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%, except that such discounts may be between 20% ~~to~~ *and* 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.

(e) (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.

(f) *On and after July 1, 2025, the commission shall not authorize an electric public utility to commence implementation of a discounted electric development rate pursuant to this section for any new or expanded facility of an industrial or commercial customer unless such discounted rate is sufficient to cover the incremental and variable cost to serve such customer. Nothing in this subsection shall be construed to affect or limit any discounted electric development rate that was first implemented prior to July 1, 2025.*

(g) 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. 2024 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)~~*(h)* 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)~~*(i)* 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)~~*(j)* For the purposes of this section:

(1) "Electric public utility" means the same as 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. 2. K.S.A. 2024 Supp. 66-101j is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.