

**SENATE BILL No. 289**

By Committee on Federal and State Affairs

3-4

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1 AN ACT concerning public utilities; relating to economic development  
2 electric rates; requiring economic development electric rate discounts  
3 to cover the incremental and variable costs to serve customers that  
4 receive the discount; amending K.S.A. 2024 Supp. 66-101j and  
5 repealing the existing section.  
6

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

8 Section 1. K.S.A. 2024 Supp. 66-101j is hereby amended to read as  
9 follows: 66-101j. (a) Notwithstanding the provisions of K.S.A. 66-101b or  
10 66-109, and amendments thereto, the commission shall authorize an  
11 electric public utility to implement economic development rate schedules  
12 that provide discounts from otherwise applicable standard rates for electric  
13 service for new or expanded facilities of industrial or commercial  
14 customers that are not in the business of selling or providing goods or  
15 services directly to the general public. To be eligible for such discounts,  
16 such customer shall:

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

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

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

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

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

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

36 (B) otherwise warrants a discounted rate based on any of the

1 following factors:

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

4 (ii) the level of capital investment;

5 (iii) additional off-peak usage;

6 (iv) curtailable or interruptible load;

7 (v) new industry or technology; or

8 (vi) competition with existing industrial customers;

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

14 (A) An annual load factor that is reasonably projected to be at least  
15 55% within two years of the date *that* the customer first receives service  
16 under the discounted rate; and

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

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

24 (A) An annual load factor that is reasonably projected to be at least  
25 55% within two years of the date *that* the customer first receives service  
26 under the discounted rate; and

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

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

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

35 (2) 10 years to facilities that qualify pursuant to subsection (b)(3).

36 (d) (1) For discounts to facilities that qualify pursuant to subsection  
37 (b)(1), the average of the annual discount percentages shall not exceed  
38 20%, except that such discounts may be between 5%~~to~~ and 30% in any  
39 year of such five-year period.

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

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

3 (A) For the first five years of the discount period, 40%, except that  
4 such discounts may be between 20% ~~to~~ and 50% in any year of such five-  
5 year period; and

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

9 (e) (1) Except as provided in paragraph (2), on and after July 1, 2024,  
10 the difference in revenues generated by applying the discounted rates  
11 authorized pursuant to this section and the revenues that would have been  
12 generated without such discounts shall not be imputed into the electric  
13 public utility's revenue requirement.

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

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

29 (g) The provisions of this section shall not apply to rates for service  
30 provided to customers under contract rates approved by the commission  
31 pursuant to K.S.A. 2024 Supp. 66-101i, and amendments thereto, or the  
32 commission's general ratemaking authority according to custom and  
33 practice of the commission in place prior to the effective date of this  
34 section.

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

- 38 (1) Number of entities with such discounts;
- 39 (2) number of entities with increased load;
- 40 (3) number of entities with decreased load;
- 41 (4) aggregate load and change in aggregate load on an annual basis;
- 42 (5) total subsidy and the subsidy for each individual contract;
- 43 (6) annual and cumulative rate impact on non-contract rate

1 customers; and

2 (7) estimated economic development impact of entities with  
3 discounted rates that occurred as a result of such discounts through an  
4 evaluation of the annual: (A) Total employment for such entities; (B)  
5 change in employment for such entities; and (C) tax revenue generated by  
6 such entities.

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

30 ~~(i)~~(j) For the purposes of this section:

31 (1) "Electric public utility" means the same as defined in K.S.A. 66-  
32 101a, and amendments thereto, but does not include any such utility that is  
33 a cooperative as defined in K.S.A. 66-104d, and amendments thereto, or  
34 owned by one or more such cooperatives;

35 (2) "expanded facility" means a separately metered facility of the  
36 customer, unless the utility determines that the additional costs of separate  
37 metering of such facility would exceed the associated benefits or that it  
38 would be difficult or impractical to install or read the meter, that has not  
39 received service in the electric utility's certified service territory in the  
40 previous 12 months; and

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

1       Sec. 2. K.S.A. 2024 Supp. 66-101j is hereby repealed.

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