

## 2023 Kansas Statutes

### **66-1237. Electric utility recovery of certain transmission costs through a separate transmission delivery charge on customer bills; requirements for certain electric utilities to recover such costs.**

(a) Any electric utility subject to the regulation of the state corporation commission pursuant to K.S.A. 66-101, and amendments thereto, may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of transmission-related costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge included in customers' bills. The electric utility's initial transmission delivery charge resulting from this section may be determined by the commission either from transmission-related costs approved in the electric utility's most recent retail rate filing or in an order establishing rates in response to a general retail rate application by an electric utility.

(b) (1) If an electric utility elects to recover its transmission-related costs through a transmission delivery charge, such electric utility shall have the right to implement a transmission delivery charge through an application to the commission.

(2) If an electric utility proposes to establish its initial transmission delivery charge other than in connection with an application to the commission that proposes a general retail rate change the commission shall, effective the same date as the effective date of the initial transmission delivery charge, unbundle the electric utility's retail rates in such a manner that the sum of the revenue to be recovered from the initial transmission delivery charge and the non-transmission-related retail rates will be consistent with the revenue that would be recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge.

(3) If an electric utility proposes to establish its initial transmission delivery charge in connection with an application to the commission for a general retail rate change, the commission shall, in its order in such rate proceeding, determine the electric utility's transmission-related costs related to its service to Kansas retail customers and determine an initial transmission delivery charge sufficient to permit the electric utility to recover from its Kansas retail customers such utility's transmission-related costs incurred to provide service to such customers.

(c) Except as provided in subsection (d), all transmission-related costs incurred by an electric utility and resulting from any order of a regulatory authority having legal jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. The commission may also order such a change if the utility fails to do so. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds.

(d) (1) A for-profit, investor-owned electric utility serving more than 20,000 customers in Kansas that elects to recover such utility's transmission-related costs through a transmission delivery charge pursuant to this section may include, as a component of such charge, the following:

(A) All transmission-related costs associated with transmission facilities constructed as a result of a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency; and

(B) all fees and costs imposed on the electric utility in connection with the operation of wholesale power markets by a regional transmission organization, independent system operator or other entity that is regulated by the federal energy regulatory commission, other federal agency or any successor federal agency.

(2) A for-profit, investor-owned electric utility serving more than 20,000 customers in Kansas may recover, as a component of a transmission delivery charge, transmission-related costs associated with transmission facilities constructed as a

result of such utility's internal or local planning processes absent a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency, subject to such utility's compliance with subsections (e) and (f).

(e) To recover the costs described in subsection (d)(2) as a component of a transmission delivery charge and to facilitate commissioner and commission-authorized intervenor review, a utility shall make a compliance filing with the commission prior to the time period provided pursuant to subsection (f) for the commission to adjust the return on equity relating to such costs. A compliance filing shall include all the compliance filing details required by this subsection. Such utility shall continue to make annual compliance filings to the commission. Each compliance filing shall provide the following:

(1) For each non-blanket work order transmission project over \$15,000,000, or a different amount deemed necessary by the commission staff in consultation with the filing utility, an itemization of projected transmission spending for the succeeding calendar year and the second succeeding calendar year. The commission may expect a utility to provide more extensive details for transmission projects in the succeeding calendar year than for the second succeeding calendar year, but the utility shall provide as many details as reasonably possible for transmission projects in the second succeeding calendar year;

(2) for each transmission project:

(A) A project identifier or name;

(B) the anticipated in-service date;

(C) the projected cost;

(D) the specific location within the utility's system;

(E) whether the project is classified as a new build, rebuild, upgrade or any other appropriate classification;

(F) a description providing the purpose for the project and the anticipated reliability benefits;

(G) a description of the original vintage of the replaced facilities if the project is classified as a rebuild or upgrade; and

(H) the load additions or economic development benefits accommodated by the project, if any; and

(3) a proposed date and time for:

(A) Representatives of the public utility to conduct a technical conference for the purpose of discussing the details of the compliance filing with commission staff, the citizens utility ratepayer board and other commission-authorized intervenors. Such technical conference shall be held not later than 90 days after the utility filed the compliance filing; and

(B) the commission to hold a public workshop in which representatives of the public utility shall present the details associated with the transmission projects that are anticipated in the succeeding calendar year. The public workshop shall allow for questions and comments from the commission, commission staff and other commission-authorized intervenors. The public workshop shall be held not later than 120 days after the utility filed the compliance filing.

(f) Beginning January 1, 2024, and prior to April 1, 2024, for any utility electing to recover the costs described in subsection (d)(2), the commission shall adjust the return on equity used to determine the revenue requirement of such costs from the federal energy regulatory commission's jurisdictional return on equity to the state corporation commission's authorized return on equity last used to set the utility's base rates in effect at the time of filing the transmission delivery charge update. If a return on equity was not explicitly established during the utility's last general rate case, the commission shall determine an appropriate return on equity from the record of the last general rate case to establish the revenue requirement for such costs. The use of the state corporation commission's authorized return on equity shall not impact any project that was constructed as a result of a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency. In any transmission delivery charge update filing, a utility electing to recover

the costs described in subsection (d)(2) shall utilize the state corporation commission's authorized return on equity that was used to set the utility's base rates in effect at the time of the update filing or that was stipulated and approved by the commission for use in the transmission delivery charge if a return on equity was not explicitly set during the last general rate case, to determine the utility's transmission delivery charge update.

**History:** L. 2003, ch. 80, § 2; L. 2007, ch. 44, § 1; L. 2023, ch. 22, § 2; July 1.