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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Committee on Energy, Utilities and Telecommunications
From: Nick Myers, Office of Revisor of Statutes
Date: February 6, 2024
Subject: Bill Brief – HB 2527

House Bill 2527 would establish new requirements relating to public utility cost recovery and ratemaking procedures. HB 2527 would also amend the criteria for which a large customer may qualify for an economic development rate and extend the economic development rate discount term for such large customers.

Section 1

Section 1 of HB 2527 would enact a new section of law that would authorize an electric public utility to defer to a regulatory asset 100% of all depreciation expenses associated with all qualifying electric plants that are recorded to plant-in-service on the utility's books. Such depreciation expenses would be required to account for qualifying electric plants placed into service less retirements of the plants being replaced. To make such regulatory asset deferral, an electric public utility must elect to do so and provide notice of such election to the state corporation commission.

In each general rate proceeding, the balance of such deferrals would be required to be included in the public utility's rate base and recovered in rates without any offset, reduction or adjustment based upon consideration of any other factor, except that the commission may disallow any balances that are not determined to be prudent.

An electric public utility's return on such deferred balances would be determined using the weighted average cost of capital applied to the change in plant-related rate base caused by the qualifying electric plant plus any applicable taxes. Any parts of deferred balances that are not included in the utility's rate base would be required to include carrying costs at the public utility's weighted average cost of capital plus any applicable taxes.

Any regulatory asset balances arising under this section that are included in a utility's rate base shall be recovered in rates through a 20-year amortization beginning on the date that such balance is included in rates.

Section 1 would define the following key terms: "Qualifying electric plant," "rate base cutoff date" and "weighted average cost of capital."

Section 2

Section 2 of HB 2527 would establish requirements for how the state corporation commission shall evaluate any large public utility that serves more than 20,000 customers in general rate proceedings. The commission would be required to evaluate any such utility on a stand-alone basis, and for purposes of establishing the revenue requirement, utilize such utility's test year capital structure without regard for the capital structure or investments of any other entities with which such utility may be affiliated. This requirement would not apply if the commission finds that the public utility's parent company does not hold an investment-grade credit rating from at least one nationally-recognized credit rating agency.

HB 2527 would authorize any such large public utility to elect to base its on equity on the fully-litigated case 12-month average from the most recent report issued in the regulatory research associates regulatory focus publication for the applicable utility type except that certain data pertaining to restructured jurisdictions, special rider and not-base rate cases shall be excluded. Such election would be binding upon the commission for purposes of determining the utility's revenue requirement except that the commission would be authorized to establish operational metrics which, if achieved, may result in an adjustment of up to 25 basis points above or below such value, including customer service, operations, changing economic or market conditions or other relevant factors.

Section 3

Section 3 of HB 2527 would amend K.S.A. 66-101j relating to a public utility's authorization to implement economic development rates to certain new or expanding businesses and industries with a large peak demand threshold.

Currently, such economic development rates and the discounts provided under such rates generally depend on a facility's peak demand threshold and load factor. The statutory baseline for economic development rates is established in statute for qualifying facilities that have a projected

peak demand of at least 200 kW within two years of the implementation of such rate. Such facilities may receive an average annual rate discount of 20% for up to five years.

Statute authorizes greater economic development rate discounts for qualifying larger facilities with a projected peak demand of at least 300 kW within two years of the implementation of such rate. Such larger facilities may receive an average annual rate discount of 40% for up to five years.

HB 2527 would amend the large facility peak demand qualification threshold and the extent of time that economic development rates may be provided to those qualifying large facilities. HB 2527 would increase the large facility peak demand threshold to 25 MW within two years of the implementation of such rate. The bill would authorize any such qualifying large facility to receive an average annual rate discount for up to 10 years as follows:

- For the first five years of such discount period, a qualifying large facility may receive an average annual rate discount of up to 40%; and
- For the final five years of such discount period, a qualifying large facility may receive an average annual rate discount of up to 20%.

HB 2527 would remove the current statutory requirement for a utility to track and defer to a regulatory asset the reductions in a utility's revenue due to such economic development rates and to recover such deferred balance in each general rate proceeding through an amortization schedule. HB 2527 would maintain the requirement that in each general rate proceeding, the reduced revenues shall be recovered through a uniform percentage adjustment to the revenue requirement responsibility for all customer classes except for customers under special contract rates authorized pursuant to K.S.A. 66-101i.

Section 4

Section 4 of HB 2527 would amend 66-1239 relating to seeking commission determination of rate making principles for electric generating facilities prior to acquiring a stake in, contracting for or retiring such facilities. With respect to new gas-fired electric generating facilities, HB 2527 would authorize a public utility to implement a new rate adjustment mechanism that is designed to recover the return on 100% of the amounts of construction work in progress for such a facility at the weighted average cost of capital. A rate adjustment mechanism must become effective 365 days after construction commences and within 30 days after a utility files for the establishment of

such mechanism with the commission. Such rate adjustment mechanism may be subject to periodic increases as the construction progresses except that increases shall not occur more than once per six months. The rate adjustment mechanism would be authorized on customer bills until such costs are included in customer rates pursuant to a general rate proceeding. Any unrecovered portion of such costs would include carrying costs at the utility's weighted average cost of capital. No such rate adjustment mechanism could remain in effect for more than six years.

HB 2527 would also increase the contractual threshold that authorizes a utility to seek a determination of ratemaking principles with respect to certain power contracts from electric generation facilities. The contractual threshold would increase from \$5,000,000 to \$10,000,000. As such, the requirements of K.S.A. 66-1239 would only apply to power generation contracts that meet or exceed such threshold.

If enacted, HB 2527 would take effect on July 1, 2024, upon publication in the statute book.