

2021 Kansas Statutes

66-101j. Same; commission authorized to approve reduced electric rates; cost recovery from rate classes; commission status report to the legislature. (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 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; or
- (2) a peak demand that is reasonably projected to be at least 300 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) An annual load factor that is reasonably projected to be at least 55% within two years of the date 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 five years. The average of the annual discount percentages shall not:

- (1) Exceed 20% for discounts that qualify pursuant to subsection (b)(1), but may be between 5% to 30% in any year; and
- (2) exceed 40% for discounts that qualify pursuant to subsection (b)(2), but may be between 20% to 50% in any year.

(d) In each general rate proceeding concluded after the effective date of this section, the commission shall allocate the reduced level of revenues arising from the discounted rates provided for in this section through the application of a uniform percentage adjustment to the revenue requirement responsibility for all customer classes of the electric public utility providing such discounted rate, including the classes with customers that qualify for discounts under this section, except for rates for service provided to customers under contract rates either approved by the commission pursuant to K.S.A. 2021 Supp. 66-101i, and amendments thereto, or the commission's general ratemaking authority.

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

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

(f) 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. 2021 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) 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) For the purposes of this section:

(1) "Electric public utility" means the same as prescribed 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.

History: L. 2020, ch. 13, § 2; July 1.