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MEMORANDUM

To: House Committee on Energy, Utilities and Telecommunications

From: Office of Revisor of Statutes

Date: March 10, 2020

RE: Senate Bill 339 – As Amended by Senate Committee of the Whole

SB 339 would give the Kansas Corporation Commission the authority to approve contract rates and economic development rate schedules for electric service to certain facilities. For any such rate, the KCC would be required to allocate the reduced revenues for the electric public utility to the utility's non-contract rate customers through a uniform percentage adjustment and approve a tracking mechanism to track such reductions in revenue experienced by the utility. The reductions in revenue would be deferred to a regulatory asset and would accrue interest at the utility's weighted average cost of capital and would be amortized over a reasonable period until fully collected from the utility's non-contract rate customers.

Section 1 – Contract Rates

Section 1 of the bill would give the KCC the authority outside of a general rate proceeding to approve contract rates for electric service to a facility that are not based on the electric utility's cost of service to a facility. To approve this type of contract rate, the KCC must determine that the facility would not continue or resume operations without such rate. The KCC would also have to determine that the contract rate is in the best interest of the state based on: (i) The interests of the customers of the electric public utility; (ii) an evaluation of the incremental cost to serve the facility; and (iii) the interests of Kansans in promoting economic development, retaining the tax base, keeping employment opportunities and promoting other benefits to the state as determined by the KCC.

The KCC would also have the authority to approve contract rates that are based on the electric public utility's incremental cost of service for a facility. To approve this type of contract rate, the KCC must determine that the facility would not commence or expand operations without the rate and that the contract rate would recover the incremental cost of providing service to the facility. The KCC would also have to determine that the contract rate is in the best interest of the state based on: (i) The interests of the customers of the electric public utility; (ii) the incremental cost to serve the facility; and (iii) the interests of Kansans in promoting economic development, expanding the tax base, increasing employment opportunities and promoting other benefits to the state as determined by the KCC.

The contract rates could be approved by the KCC for a term of up to 10 years. An electric public utility could apply for reapproval of contract rates for a facility that the KCC had previously granted approval. If the KCC approves a contract rate, the KCC would be prohibited from modifying or terminating any such contract rate during the term of the rate.

Section 1 Definitions:

- "Facility" means an existing or proposed building or buildings of an existing or potential electric customer with existing or expected load equal to, or in excess of, a monthly demand of 50 megawatts, and such load may represent the aggregate demand of multiple meter accounts.
- "Electric public utility" means a public utility as defined in K.S.A. 66-104 which generates or sells electricity but does not include electric cooperatives.

Section 2 – Economic Development Rate Schedules

Section 2 of the bill would require the KCC to authorize an electric public utility to implement economic development rate schedules for electric service to new facilities 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 the discounted rate, such customer would be required to have financial incentives from one or more local, regional, state or federal economic development agencies to locate the new facility or expanded facility in the utility's service territory. The customer must also qualify for service under the utility's applicable rate schedules for the new or expanded facility and cannot receive the discount together with other contract agreements.

An economic development rate schedule shall only be applicable to new facilities or expanded facilities that either:

1. Have a peak demand that is projected to be at least 200 kilowatts within two years of receiving service and has: (A) an annual load factor projected to exceed the customer's load factor within two years; or (B) otherwise warrants a discounted rate based on economic development and energy usage factors; or
2. Have a peak demand that is projected to be at least 300 kilowatts within two years and an annual load that is reasonably projected to be at least 55% of the utility's annual system load factor within two years.

The discounted rate would be a fixed percentage annual rate discount for a period of up to five years. The average of the annual discount percentages could not:

1. Exceed 20% for discounts for facilities that had a projected peak demand of at least 200 kilowatts but could be between 5% to 30% in any year; and
2. exceed 40% for discounts for facilities that had a projected peak demand of at least 300 kilowatts but could be between 20% to 50% in any year.

Section 2 Definitions:

- "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
- "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.
- "Electric public utility" means a public utility as defined in K.S.A. 66-104 which generates or sells electricity but does not include electric cooperatives.

Biennial Reports

Beginning January 2023, the KCC would be required to provide a biennial status report to the legislature about current contract rates and economic development rates. Such report would be required to include the number of entities with such rates, the number of entities with increased and decreased load, the aggregate load and annual change in aggregate load, the total subsidy and the subsidy for each contract rate, the annual and cumulative rate increase on non-contract rate customers and the estimated economic development impacts through an evaluation of the employment numbers of entities with contract rates and tax revenue generated by such entities.