Electric Transmission Facilities: Recovering Costs for Construction and Upgrading

This Act authorizes the state corporation commission to approve inclusion in retail electric rates of regulated electric utilities, electric cooperatives, and municipal electric utilities those costs associated with the construction or improvement of electric transmission facilities under certain circumstances. The bill covers costs for construction or upgrading of electric lines with an operating voltage of at least 115 kilovolts. Electric cooperatives and municipal electric utilities would be subject to the jurisdiction of the corporation commission for implementation of the Act.

The corporation commission could approve inclusion of the specified costs in retail utility rates if the commission finds:

- That a regional transmission organization has identified the construction or upgrade as appropriate for reliability of the electric transmission system or for economic benefit to transmission owners and customers; and
- A state agency has determined that the project will provide measurable economic benefit to electric consumers in the state that would exceed anticipated project costs.
- The commission could approve recovery of project costs in retail electric rates only if those costs would not otherwise be recovered.

Comment:
This Act is reported to be the first to provide statutory authority for a public utility commission, based on a recommendation by a regional transmission organization, to assign full cost-recovery charges to all beneficiaries for an economic development-based transmission project. Economic development projects are all proposed non-system reliability transmission lines (e.g. to move low cost power to high cost areas, or to serve some types of new loads or generation). The significance of this bill is that it requires that approval of a transmission project by a regional transmission organization shall constitute a rebuttable presumption of the appropriateness of such a project, and recovery of unassigned costs for the project shall be assessed and collected from all beneficiaries.

Submitted as:
Kansas
HB 2045
Status: Enacted into law in 2005.

Suggested State Legislation

Section 1. [Short Title.] This Act may be cited as “An Act to Cover the Cost of Building and Upgrading Electric Transmission Facilities.”

Section 2. [Definitions.] As used in this Act:

1. “Appurtenances” means all substations, towers, poles and other structures and equipment necessary for the bulk transfer of electricity.
2. “Commission” means the state [corporation commission].
3. “Construction or upgrade of an electric transmission facility” means construction or upgrade of an electric line, and appurtenances with an operating voltage of 115 kilovolts or more.
Section 3. [Criteria for Recovering Costs.]

(1) Upon application, the [commission] may authorize recovery of costs associated with the construction or upgrade of an electric transmission facility if the [commission] finds that:

(A) A regional transmission organization has identified such construction or upgrade as appropriate for reliable operation of the integrated electric transmission system; or for economic benefits to transmission owners and customers; and

(B) A state agency has determined that such construction or upgrade will provide measurable economic benefits to electric consumers in all or part of this state that will exceed anticipated project costs; and

(2) Such costs are not being otherwise recovered.

(3) The [commission] shall review an application for recovery of costs pursuant to this section in an expedited manner if the application includes evidence that expedited construction or upgrade of the electric transmission facility will result in significant, measurable economic benefits to electric consumers in this state. Recommendation or approval of construction or upgrade of an electric transmission facility by a regional transmission organization shall constitute a rebuttable presumption of the appropriateness of such construction or upgrade for system reliability or economic dispatch of power.

(4) In determining whether to approve recovery of costs pursuant to this section the [commission] may consider factors such as the speed with which electric consumers in this state will benefit from the transmission facility and the long-term benefits of the transmission facility to electric consumers in this state, or both, and whether such factors outweigh other less costly options. An application for recovery of costs pursuant to this section shall include such information as the [commission] requires to weigh such factors, including, but not limited to, information regarding estimated line losses, reactive power and voltage implications and long-term economic and system reliability benefits.

(5) Any recovery of costs authorized by the [commission] pursuant to this section shall be assessed against all electric public utilities, electric municipal utilities and electric cooperative utilities receiving benefits of the construction or upgrade and having retail customers in this state. Each such utility’s assessment shall be based on the benefits the utility receives from the construction or upgrade. In determining allocation of benefits and costs to utilities, the [commission] may take into account funding and cost recovery mechanisms developed by regional transmission organizations and shall take into account financial payments by transmission users and approved by the Federal Energy Regulatory Commission or regional transmission organization. Each electric public utility shall recover any such assessed costs from the utility’s retail customers in a manner approved by the utility’s governing body.

(6) All money collected by a utility from assessments authorized by the [commission] pursuant to this section shall be paid quarterly by the utility to the transmission operator or owner designated by the [commission].

(7) Notwithstanding any other provision of law to the contrary, electric municipal utilities and electric cooperative utilities shall be subject to the jurisdiction of the [commission] for the limited purpose of implementing the provisions of this section.

Section 4. [Severability.] [Insert severability clause.]

Section 5. [Repealer.] [Insert repealer clause.]

Section 6. [Effective Date.] [Insert effective date.]