Session of 2025

SENATE BILL No. 131

By Committee on Utilities

1-30

AN ACT concerning energy; relating to the state corporation commission; requiring the commission to establish and enforce a code of conduct and agricultural mitigation protocols for the development, construction, operation and decommissioning of certain large energy facilities in rural areas of the state.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in sections 1 through 4, and amendments thereto:

(a) "Battery energy storage system" means an electrochemical device that is capable of absorbing and storing electrical energy and discharging such energy at a later time.

(b) "Commercial battery energy storage system" means a battery energy storage system that can store and then discharge one megawatt or more of electrical energy over a one-hour duration.

(c) "Commercial solar energy conversion system" means a solar energy conversion system that has a total system-rated generating capacity of one megawatt or more and all appurtenant facilities of such system, including, but not limited to, the solar collectors, battery storage units, substations and operations and maintenance buildings.

(d) "Commission" means the state corporation commission.

(e) "Electric transmission lines" means the same as defined in K.S.A. 66-1,177, and amendments thereto.

(f) "Large energy facility" means any:

(1) Commercial battery energy storage system

(2) commercial solar energy conversion system;

(3) electric transmission lines; or

(4) wind energy conversion system.

(g) "Large energy facility owner" means any person or entity that owns or operates a large energy facility and any employees, agents, contractors, subcontractors or assigns thereof, including any person or entity that seeks the necessary rights, permits or approvals for the construction and operation of a large energy facility regardless of whether such person or entity will own or operate the large energy facility after construction.

(h) "Rural area" means any area located one mile or more outside of:

(1) The corporate limits of any city; or

(2) any unincorporated area having a housing density of three dwelling units per acre or more.

(i) "Solar energy conversion system" means any device, component or system required to convert solar energy into electric or thermal energy.

(j) "Wind energy conversion system" means the same as defined in K.S.A. 66-1289, and amendments thereto.

Sec. 2. (a) The commission, after consultation with the Kansas department of agriculture, shall establish a code of conduct and agricultural impact mitigation protocols for the development, construction, operation and decommissioning of large energy facilities in rural areas of the state.

(b) The code of conduct shall, at a minimum, contain provisions that require each large energy facility owner to:

(1) Be truthful and honest in all communications with landowners;

(2) be transparent about the large energy facility project;

(3) provide appropriate contact information for the large energy facility owner and any employees, agents, contractors, subcontractors or assigns thereof that are associated with the project;

(4) ensure that all communications with landowners do not contain any threat or coercion;

(5) abide by the request of any landowner who requests that the large energy facility owner, or any employees, agents, contractors, subcontractors or assigns thereof, vacate the landowner's property or cease communications with the landowner;

(6) not disclose communications from a landowner unless such disclosure is otherwise agreed to in writing;

(7) establish procedures to provide early and meaningful landowner involvement in the siting process for the large energy facility, including both public and private meetings with affected landowners and individuals;

(8) provide and make accessible project maps to landowners and the public during the siting process;

(9) establish procedures to consider and accept any landowner-requested micro-siting modifications to the project;

(10) ensure that property appraisals and offers to landowners are consistent and based on the attributes and use of the land;

(11) offer each landowner an amount that is greater than the fair market value of the property interest whenever the large energy facility owner possesses the authority of eminent domain for the project;

(12) allow the landowner to elect to receive a one-time payment or annual payments for the life of the project for any payment made to the landowner that is associated with the acquisition of any property interest;

(13) compensate landowners for any and all damages to land and

agricultural operations resulting from the development, construction, operation or decommissioning of the project and establish procedures to determine and calculate compensation for such damages;

(14) establish an optional appeal process when the large energy facility owner's offer for the landowner's property interest is deemed inadequate by the landowner;

(15) establish setbacks from residential and agricultural structures that are based on scientifically proven health and safety information;

(16) remediate communication circuits that are diminished or disrupted due to communication interference caused by the project;

(17) track the obligations that are owed to landowners based on the terms negotiated by landowners and provide a map of such obligations showing the energy company's obligations by each individual parcel of land;

(18) establish a decommissioning plan that ensures infrastructure removal and land restoration when the project is retired or abandoned;

(19) provide adequate financial assurance to ensure the full and complete decommissioning of the project and the completion of any wind-up activities; and

(20) indemnify and hold harmless any affected landowner or tenant, and any heirs, successors, legal representatives or assigns thereof, from any and all liability associated with the development, construction, operation or decommissioning of the energy project, unless such liability arises from the intentional or willful acts of the indemnitee.

(c) The agricultural impact mitigation protocols shall, at a minimum, contain provisions that require each large energy facility owner to:

(1) Provide advance notice to and coordinate with any landowner or tenant whenever the large energy facility owner needs to access private property;

(2) designate one or more contacts for the large energy facility owner who have experience in agriculture and who may be contacted by any landowner when any agricultural impact mitigation work is inferior;

(3) establish standards for facilities and support structures to minimize the impact to agricultural land and operations;

(4) establish procedures to mitigate and address any impacts to important agricultural improvements caused by the project, including, but not limited to, impacts to drainage tiles, terraces and irrigation systems and lightning and stray voltage mitigation measures;

(5) establish soil protection measures, including, but not limited to, decompaction, fertilization, stabilization, repair damaged soil conservation and erosion prevention projects and removal of construction debris;

(6) establish soil restoration measures that shall apply following construction activities, operational activities and decommissioning

activities, including, but not limited to, segregation and replacement of topsoil and reestablishment of the vegetative growth that existed prior to disturbance;

(7) adhere to scientific standards for all agricultural impact mitigation work such as the standards established by the natural resources conservation service, the United States department of agriculture farm service agency, agricultural extension offices or land grant universities;

(8) establish procedures for installation and maintenance of any necessary gates to the facility or facility structures;

(9) for any project involving the electric transmission lines, construct the electric transmission lines with an adequate transmission line height to ensure that any existing agricultural operations may continue under and around the transmission line in a safe manner;

(10) establish procedures for tree and brush removal, including, but not limited to, compensation for removal of trees with commercial value;

(11) establish procedures for controlling noxious weeds and other growth within any lease or easement; and

(12) provide compensation to any landowner or tenant for lost revenue when the landowner or tenant is forced to withdraw from any agricultural or conservation program due to the construction and operation of the large energy facility.

Sec. 3. (a) On and after January 1, 2026, no large energy facility owner may begin site preparation for or construction of a large energy facility, or exercise the right of eminent domain to acquire any interest in land for the construction of such facility, in any rural area of the state until the large energy facility owner has obtained from the commission a code of conduct permit to construct the large energy facility. Whenever any large energy facility owner seeks to obtain such a permit, the large energy facility owner shall file an application with the commission that specifies:

(1) The proposed location of the large energy facility;

(2) that the large energy facility owner, and any employees, agents, contractors, subcontractors or assigns thereof, agrees to abide by and adhere to the code of conduct and agricultural impact mitigation protocols established by the commission pursuant to section 2, and amendments thereto, throughout the life and decommissioning of the project.

(b) The commission may further condition such permit as the commission may deem just and reasonable to best protect the rights of all interested parties and the general public.

(c) (1) In addition to any penalty established pursuant to the terms and conditions of any code of conduct permit issued by the commission pursuant to this section, upon complaint by a landowner or upon the commission's own motion, the commission may impose a civil penalty not to exceed $10,000 upon finding that a large energy facility owner has

violated the provisions of this act, the provisions of a code of conduct permit or any rule and regulation or order of the commission. Such penalty shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed. In the case of a continuing violation, the commission may deem every day such violation continues as a separate violation.

(2) No penalty shall be imposed pursuant to this subsection except upon the written order of the commission to the large energy facility owner who committed the violation. The order shall state the violation, the penalty imposed and the right to appeal such order to the commission. Any such facility owner, within 30 days after service of such order, may make written request to the commission for a hearing. The commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request.

(3) Any large energy facility owner aggrieved by any order issued pursuant to this subsection may appeal such order in accordance with the provisions of the Kansas judicial review act.

(4) The commission may order a large energy facility owner to pay any costs and reasonable attorney fees incurred by the commission in imposing and collecting any penalty pursuant to this subsection and may collect interest on any portion of such penalty, costs and attorney fees that remains unpaid more than 30 days after imposition, at the rate provided by K.S.A. 16-204, and amendments thereto, for interest on judgments.

(5) All moneys received from penalties imposed and costs and attorney fees assessed pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 4. The commission may adopt rules and regulations to administer sections 1 through 3, and amendments thereto.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.