

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 9:30 A.M. on March 13, 2007 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department  
Mike Corrigan, Revisor of Statutes  
Tatiana Lin, Legislative Fellow  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Rick Underbakke, President, Cloud County Community College, Concordia  
Tom Thompson, Kansas Chapter of Sierra Club  
Stuart Lowry, Kansas Electric Cooperatives

Others in attendance: See attached list

Vice Chairman opened for hearing on

**HB 2127 - Electric generation facilities, parallel generation contracts**

Proponents:

Rick Underbakke, president, Cloud County Community College, Concordia, noted there are two components of the bill that will greatly support the needs of students and the educational programs at Cloud County Community College. These are (1) size limitations for turbines - the larger is more desirable to train students on state-of-the-art turbines like they will experience in the workplace; and (2) funding alternatives. (Attachment 1)

Tom Thompson, Kansas Chapter of the Sierra Club, noted Sierra Club supports efforts that encourage the use of renewable energy generation. **HB 2127** makes it more cost effective for schools and irrigators to use renewable generation methods to meet their energy needs. (Attachment 2)

Written testimony provided by:

Representative Tom Sloan (Attachment 3)

Craig Sloan, First National Bank, Larned (Attachment 4)

Opponents:

Stuart Lowry, Kansas Electric Cooperatives, speaking for the electric cooperatives, objected to the subsidy or incentive being funded solely by ratepayers of the utility to which a renewable generator happens to interconnect. Instead they believe that the subsidy should be funded by the State as a whole, since the installation of the renewable generation is in furtherance of a statewide goal. (Attachment 5)

Written testimony provided by;

Joe Dick, Government Affairs officers, Kansas City Board of Public Utilities. (Attachment 6)

Considerable discussion on rates of various electrical companies, federal law, and how the possible financial hit would be paid.

Closed hearing on **HB 2127**.

Chairman Emler opened for discussion on Proposed **Substitute for SB 325**

After lengthy meetings by representatives of Kansas Corporation Commission, irrigators and gas gatherers, the proposed **Substitute for SB 325 (7rs1314)** with amendments was submitted to the Committee for discussion. (Attachment 7)

Discussion regarding the proposed amendments was not completed due to the lack of time. Chair indicated further discussion would be held as time permits.

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on March 13, 2007 in Room 526-S of the Capitol.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 7

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 13, 2007

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Name	Representing
- Richard Vonderheide	Cloud County Comm College
Lon Stanton	Northern Natural Gas Co
Brandi Gooddiker	KS Corn Growers
Core White	KS Corn
PHIL WAGES	KCP&CO
Jim Flaherty	Bowen
Dave Holthaus	KEC
Stuart Lowry	KEC
BOB ALDERSON	AQUILA
<del>Ken Peluso</del>	KS Petroleum Council
STEVE JOHNSON	ONEOK PARTNERS
LARRY BEEL	MIDWEST ENERGY
Tom Thompson	Sierra Club
Ron Seiber	Hunt Law Firm
Leo Haynes	KEC

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Senate Utilities Committee  
Testimony on HB 2127  
March 13, 2007

I am Dr. Richard Underbakke from Cloud County Community College in Concordia, KS. I am here to testify in support of HB 2127. In particular, there are two components that are of interest to me and will greatly support the needs of students and their educational programs at Cloud County Community College. I need your support on the size limitations for turbines owned by community colleges. Page 2, lines 4, 5 & 6, state that community colleges can own turbines up to 1.5 Megawatts (mW). This is critical to Cloud County Community College and the success of our Wind Energy Technology Program. The larger turbines have different technology than those smaller than 1mW. If we are forced to purchase a smaller turbine, we would not have the technology to train students on state-of-the-art turbines like they will experience in the workplace.

Cloud County Community College is also supportive of the language on page 3, line 34, through page 4, line 1. A turbine of this size is not efficient for the College; however - as stated above - we need this size of turbine to support the curriculum in our Associate in Applied Science degree in Wind Energy Technology.

The section including page 4, line 1, through page 4, line 35, increases funding alternatives for colleges wishing to build a wind turbine. It is critical for us to be able to utilize the most efficient use of public funds during the purchase of a wind turbine.

Richard Underbakke Ph.D.  
President  
Cloud County Community College  
2221 Campus Drive  
P.O. Box 1002  
Concordia KS 66901  
785.243.1435 x201

Senate Utilities Committee  
March 13, 2007  
Attachment 1-1

**Testimony before the Senate Utilities Committee  
March 13, 2007  
Supporting H.B. 2127**

Chairperson Emler and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in support of H.B. 2127.

H.B. 2127 makes it more cost effective for schools and irrigators to use renewable generation methods to meet their energy needs. It also encourages schools to provide a valuable educational experience for their students. The Sierra Club believes HB 2127 is a step in the right direction and encourages at least two types of users to benefit from cleaner sources of energy.

It would be even better if this were opened up to more energy users. Sierra Club supports efforts that encourage the use of renewable energy generation. Doing so benefits consumers and decreases the need for CO2 and mercury producing energy generation methods. This bill is a move toward net metering which is available to energy customers in 41 states in various forms. It would be encouraging to have Kansans being able to benefit from these enticements too.

Because of the added incentive for using renewable electric generation, Sierra Club supports H.B. 2127.

Thank you for this opportunity and your time.

Sincerely

Tom Thompson  
Sierra Club

Senate Utilities Committee  
March 13 , 2007  
Attachment 2-1

TOM SLOAN  
REPRESENTATIVE, 45<sup>TH</sup> DISTRICT  
DOUGLAS COUNTY

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STATE OF KANSAS



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: ENERGY AND UTILITIES  
TRANSPORTATION  
GOVERNMENT EFFICIENCY  
AND TECHNOLOGY

Testimony on HB 2127 - Senate Utilities Committee - March 13, 2007

Mr. Chairman, Members of the Committee: HB 2127 represents an effort by the House to address two specific requests from agricultural and academic folks to expand the economic base in Kansas.

Under current law, commercial enterprises with renewable energy electric generation no larger than 100 kv are authorized to sell their "surplus" electricity to the local utility for 150 percent of the utility's average avoided cost. Avoided costs essentially means the cost of fuel that would otherwise have been burned to produce the same amount of electricity. Federal law requires that the utility pay 100 percent of the avoided costs, state law provides the additional incentive for small renewable generators.

The central Kansas irrigators that contacted us have determined that 200 kv turbines are necessary to pump the water from the depths at which it is located. Every effort was made to balance the needs of the irrigators and the utility. HB 2127 not only limits the irrigator to an appropriately sized turbine, but also provides limits on how many turbines may be connected and further provides that the local utility may deny even that number if the utility determines that their distribution lines and operations are not capable of handling such loads.

Kansas has been rated as the state with the third best wind generation potential. This means, that if fully developed, Kansas can produce more electricity from wind than 47 other states. While we have not developed the wind generation quickly enough to attract turbine manufacturing plants, Cloud County Community College and Manhattan Technical College have collaboratively worked to develop a curriculum for the people who maintain and service turbines. This program will serve not only Kansas' wind farms, but will be one of the first in the nation and the graduates will have employment opportunities across the region. In concept, this is similar to the telecommunications program at Goodland's technical college that prepares people for employment in Kansas and regionally in a highly technical field.

The intent of HB 2127 is to have an appropriately sized turbine to meet the electric needs of Cloud County Community College and serve as a training platform for students. The proposed sale of "surplus" electricity to the local utility for 150 percent of the utility's avoided costs has attracted negative attention from the electric cooperatives. The language of the bill carefully limits the size of generator to one appropriate to the education institution's (the House Energy & Utilities Committee removed all references to K-12 schools) needs with a cap of 1.5 MW. The

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1.5 MW size turbine permitted by the bill *may not be installed if it is not the appropriate size for the college's electric load or is too large for the utility system's distribution line.*

To address some of the electric cooperatives' concerns, the Committee may wish to limit HB 2127 to Cloud County Community College. I remind the Committee that under existing state law, it is permissible for any electric customer to co-generate. The "fear" that the education institution will be putting 1.5 MW of electricity into the local utility's system is unfounded. First the education institution must have a properly sized generator for its load and second, the college must use that electricity. "Surplus" power will never be the full capacity of the generator - it cannot be because the college will meet its electric needs from that source.

HB 2127 will not destabilize any electric cooperative's system. It cannot because generation must be appropriately sized to the load, the local utility can further limit generation if the size of the distribution lines will not be able to handle the realistic "surplus" generation, and the prospective generator and the local utility must have a mutually determined interconnection agreement.

Thank you for your attention. I will be pleased to respond to questions.



Testimony in Support of HB 2127

By: Craig Sloan

March 13, 2007

Mr. Chairman and members of the committee, I am pleased to present my statement supporting this bill. My name is Craig Sloan. I am not related to Representative Tom Sloan, but we are friends. I am a life-long Kansas resident and was raised near Weskan, in Wallace county, so I am quite familiar with the power packed by Kansas winds. One of my memories from earliest childhood features my father checking the array of 32 volt batteries in the “wind charger shed”. Of course, REA arrived soon thereafter and the wind charger was retired. But not forgotten...

I support this bill in general, and in particular the increase to 200 KW for commercial wind. This increase will create a better opportunity for irrigators to utilize wind-turbine power to drive their irrigation wells. While many of the shallower wells in Kansas could be driven by wind turbines up to 100 KW, as you move west in the state the wells are deeper and require more power to lift the water to the surface. Increasing to 200 KW will allow more farmers to adapt wind power to their irrigation needs at a time when fossil fuels are becoming a major cost concern. The wind turbine will also provide “wind harvesting” capabilities for the farmer-owner beyond that time when irrigation is no longer feasible.

Included is a table showing irrigation well and wind power relationships.

Thank you.

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**Testimony of  
Kansas Electric Cooperatives, Inc.**

**HB 2127**

**March 13, 2007**

Mr. Chairman and members of the committee my name is Stuart Lowry. I am Executive Vice President/General Counsel of Kansas Electric Cooperatives, Inc., the statewide association of thirty electric cooperatives. I am testifying today in opposition to HB 2127, specifically those portions of HB 2127 that would expand the renewable generation units eligible for the enhanced purchase rate for excess generation under KSA 66-1,184.

You have no doubt read and heard much about the development of wind energy in Kansas, including recent announcements by Sunflower and Midwest Energy of cooperative wind energy purchases. By the end of the year, Sunflower will have more than 10% and Midwest nearly 8% of their energy from utility-scale wind farms. HB 2127 addresses a different type of wind energy development. KSA 66-1,184 is the state statute that enhances the purchase rate a utility pays to renewable generators interconnecting under the Public Utilities Regulatory Policies Act of 1978 (PURPA). Parallel generation occurs when a utility customer installs generation equipment to meet the customer's own electrical needs. Under the statute, the customer may interconnect the renewable generator with the electric utility and generation in excess of that needed by the customer is sold to the utility. The statutory provisions regarding the interconnection and purchase of excess generation are consistent with federal law in all material respects except for one. Federal law requires the utility to pay the interconnecting generator for the excess generation placed back on the utility grid at a rate equal to the energy costs avoided by the utility, and under Kansas law the utility pays certain interconnecting generators 150% of the energy costs avoided. This enhanced purchase rate applies to residential customers with renewable generation with a capacity of 25 kW or less and commercial customers with renewable generation with a capacity of 100 kW or less. The additional 50% above the avoided energy cost is a subsidy or incentive payment that was added to the parallel generation statute in 2001 and was meant to serve as an incentive

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for the installation of small customer-owned distributed generation.

HB 2127 would expand the scope of generators eligible for the subsidy or incentive payment to include renewable generators up to 1.5 MW in size when installed by any community college, technical school, vocational school, or educational institution. The increase in the size of the generator increases the potential subsidy payment when excess generation is purchased by the utility. It is difficult to measure the precise financial impact caused by interconnecting larger units without knowing a) the capacity factor of the interconnecting generator, b) how much of the generation will be used by the customer and how much would be sold to the utility, and c) the future avoided energy costs. Some reasonable calculations suggest that the changes proposed by the bill could possibly cause the interconnecting utility to pay nearly \$60,000 in subsidy payments.

The electric cooperatives understand and support the efforts of the State of Kansas to incent and encourage renewable generation and the statewide goal of increasing the amount of renewable generation. We believe that a subsidy payment or incentive is an appropriate way to achieve this statewide goal and that the subsidy should be funded by all beneficiaries. **Therefore, we object to the subsidy or incentive being funded solely by ratepayers of the utility to which a renewable generator happens to interconnect. Instead we believe that the subsidy should be funded by the State as a whole, since the installation of the renewable generation is in furtherance of a statewide goal.**

The existing state law requires a utility funded subsidy for small customer owned generation. The expansion of the law to larger renewable installations could result in a significant cost to the interconnecting utility, which costs would be born solely by the remaining customers of that utility rather than the state as a whole. For that reason we oppose HB 2127.

March 13, 2007

Chairman Emler and Members of the Senate Utility Committee:

My name is Joe Dick, and I am the Government Affairs officer for the Kansas City Board of Public Utilities.

The Board of Public Utilities is the largest municipally owned utility in the state of Kansas. The Board of Public Utilities serves 65,000 power customers and 57,000 water customers.

The Board of Public Utilities is opposed to House Bill # 2127.

It is our believe that it is wrong for any utility to be asked to subsidize an educational program of a college. The bill seeks to have a utility pay 150% of the monthly system average cost of energy per kWh, rather than simply pay avoided costs which is current law for any excess generation that a wind generator would produce at the school.

The Board of Public Utilities urges you not to pass the bill as written.

Thank you for your time and consideration.

Sincerely,

Joe Dick  
Government Affairs Officer

Senate Utilities Committee  
March 13, 2007  
Attachment 6-1

## Proposed Substitute for SENATE BILL NO. 325

By Committee on Utilities

AN ACT concerning natural gas; relating to gas gathering activities; amending K.S.A. 55-1,101 and K.S.A. 2006 Supp. 66-105a and repealing the existing sections.

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

Section 1. K.S.A. 55-1,101 is hereby amended to read as follows: 55-1,101. (a) As used in K.S.A. 55-1,101 through 55-1,109, and amendments thereto:

(1) "Gas gathering services" means the gathering or preparation of natural gas for transportation, including transportation to a main transmission line or to any exit tap on a gas gathering system, whether such services are performed for hire or in connection with the purchase of natural gas by the person gathering or preparing the gas or a marketer affiliated with the person gathering or preparing the gas. "Gas gathering services" does not include the gathering of natural gas by an owner or operator of gathering facilities who: (A) Does not hold such facilities out for hire on or after the effective date of this act; and (B) does not purchase the gas for resale. Existing, new or additional exit taps added to a gas gathering system shall not cause a gas gathering system to be regulated as a public utility as that term is used in K.S.A. 66-104, and amendments thereto, or as a common carrier as that term is used in K.S.A. 66-105, and amendments thereto.

(2) "Exit tap on a gas gathering system" means the point on a gas gathering system at which natural gas is delivered to a consumer, homeowner, business, agricultural user, person, gas marketer or public utility.

~~(2)~~ (3) Other terms have the meanings provided by K.S.A. 55-150, and amendments thereto.

(b) The provisions of K.S.A. 55-1,101 through 55-1,109, and amendments thereto, shall be part of and supplemental to chapter 55 of the Kansas Statutes Annotated.

Sec. 2. K.S.A. 2006 Supp. 66-105a is hereby amended to read as follows: 66-105a. (a) ~~On--and-after-July-17--1997,~~ The term



"public utility" as used in K.S.A. 66-104, and amendments thereto, and the term "common carriers" as used in K.S.A. 66-105, and amendments thereto, shall not include any gas gathering system, as defined in K.S.A. 55-150, and amendments thereto, which provides gas gathering services, as defined in K.S.A. 55-1,101, and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), and section 3, and amendments thereto, for those persons providing gas gathering services in such a manner that allows end use customers to obtain natural gas by direct connection to a gathering system, the commission shall have authority, upon complaint or petition or upon its own motion, to determine the reasonableness of, and regulate and supervise, any health or safety related curtailment or proposed health or safety related curtailment of natural gas that results in the loss of service to the end use customer.

(c) Any person providing gas gathering services in such a manner that allows the offering of natural gas from a gas gathering system to an end use customer shall give notice thereof to the commission and to each affected end use customer and public utility of its intent to curtail service that will result in the loss of natural gas service to the end use customer. Except in the case of an emergency, notice shall be provided at least 30 days prior to such curtailment. In the case of an emergency, service to residential dwellings or commercial offices may be curtailed immediately upon a good faith belief that an emergency exists. Notice shall be given immediately to the end user and public utility. The person curtailing service, within 24 hours of the determination of the emergency, shall report the curtailment to the state corporation commission and provide the basis for and evidence supporting the good faith belief that curtailment was necessary under the emergency provisions of this subsection. In the event that the curtailment was not based upon a good faith belief and was unnecessary, as subsequently determined by the state corporation commission, the person

curtailing service shall be held responsible for the cost of the service curtailment, including any reconnection cost and temporary heating costs.

(d) Nothing contained in subsections (b) and (c) shall be construed to diminish any authority vested in the commission prior to the effective date of this act.

New Sec. 3. The commission may, upon complaint by a party who has or seeks an exit tap on a gathering system, review disputes over access, service or abandonment, regarding exit taps on a gas gathering system, only as follows:

(a) The commission may review such disputes for reasons other than health or safety of: (1) Exit taps provided pursuant to right-of-way agreements between landowners and gas gathering system owners or operators; and (2) exit taps being provided, on or before the effective date of this act, directly to an end user or to a public utility.

(b) The commission may review such disputes for reasons other than health or safety for exit taps requested to serve a non-profit utility organized pursuant to K.S.A. 66-104c, and amendments thereto, that provides natural gas service exclusively for agricultural activity, but not including any domestic use.

(c) Prior to filing a complaint with the commission, the existing or proposed exit tap customer shall meet the following requirements:

(1) Such customer must have acquired or be able to acquire a supply of natural gas with access to the gas gathering system;

(2) such customer must meet the same financial requirements and guarantees as all other shippers on the gathering system, including credit worthiness; and

(3) such customer shall be prepared to pay all costs and any associated expenses for the exit tap installation and service as imposed by the provider.

(d) After review, the commission may order that exit tap service be provided and may determine if rates and charges for such service are unduly discriminatory for such service, but such



service shall not be required unless the commission finds all of the following:

(1) That the service will not impair the ability of the gathering system to meet all existing and anticipated demand on the system;

(2) that the provision of such service will not require installation, relocation or modification of compression or other operations and equipment or features;

(3) that the charges for the service are adequate to cover the provider's administrative and operating expenses for the exit tap service, the costs of installing the exit tap and a reasonable profit margin considering the risks involved;

(4) that the service shall be provided on an interruptible basis and that the provider shall be indemnified by the exit tap customer from liability for and shall not be held liable for damages to human life, crops, livestock, equipment, environmental or any other damage arising from the use of the natural gas acquired through the service, or arising from interruption or curtailment of service;

(5) that the customer has agreed that such service may be terminated for failure to promptly pay billings or maintain credit worthiness;

(6) that the customer has agreed that such service may be terminated at any time if continued service threatens the operational stability and reliability of the provider's system or if service cannot be continued to be safely provided and that service may be interrupted for system maintenance, replacement or repairs;

(7) that such service will not impair or modify existing contracts held by the gas gathering system owner or operator;

(8) that such service will not unreasonably increase the total number of exit taps on the provider's system;

(9) that such service can be provided in a safe and environmentally sound manner; and

(10) that the provision of such service shall not adversely

affect service or cost to any other gas gathering service customers on the system.

(e) In addressing any complaint, the commission shall not review the terms, including the price and volume of the natural gas commodity, of any purchase agreement for acquisition of natural gas by the exit tap customer and shall not order any producer, gatherer or other party to sell natural gas to such customer or proposed customer and shall not require the provision of a new exit tap on any gathering system which has not previously provided at least one exit tap prior to the effective date of this section.

(f) As used in this section:

(1) "Agricultural activity" means the growing or raising of horticultural and agricultural crops, hay, poultry, livestock and dairy products for commercial purposes including a feedlot and confined feeding facility.

(2) "Confined feeding facility" means any lots, pens, pools or ponds.

(3) "Feedlot" means lots, yards, corrals, confined feeding facilities or other area in which livestock are fed for slaughter and are confined and such additional acreage as is necessary for the operation of the feedlot.

Sec. 4. K.S.A. 55-1,101 and K.S.A. 2006 Supp. 66-105a are hereby repealed.

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