

## HOUSE BILL No. 2465

By Committee on Energy and Environment

1-21

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1 AN ACT concerning electricity; relating to generation; renewable energy  
2 facility; public utility, definitions, exceptions; amending K.S.A. 66-  
3 1,170 and K.S.A. 2013 Supp. 66-104 and repealing the existing  
4 sections.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) As used in this section: (1) "Renewable energy  
8 facility" means a facility located on a premises owned, operated, leased or  
9 otherwise controlled by a tax exempt entity that is powered by a renewable  
10 energy resource, as defined in K.S.A. 66-1257, and amendments thereto,  
11 and is intended primarily to offset part of the tax exempt entity's own  
12 electrical energy requirements.

13 (2) "Renewable energy generator" means any corporation, company,  
14 individual, association of persons, their trustees, lessees or receivers that  
15 installs, finances, owns or operates a renewable energy facility.

16 (3) "Tax exempt entity" means a governmental entity as defined in  
17 K.S.A. 75-6102, and amendments thereto, a federal entity as defined in  
18 K.S.A. 74-8902, and amendments thereto, church or other religious  
19 societies, benevolent or charitable organizations and associations, social  
20 service agencies, civic or community organizations and associations and  
21 corporations or other entities organized for the purpose of providing  
22 humanitarian services.

23 (4) "Utility" means electric public utility as defined in K.S.A.  
24 66-101a, and amendments thereto.

25 (b) (1) Any tax exempt entity shall have the option to purchase  
26 electricity generated by a renewable energy facility from a renewable  
27 energy generator. A renewable energy facility shall not exceed 200 percent  
28 of the tax exempt entity's baseline annual usage over the past three years,  
29 or anticipated load if new construction has been completed within the past  
30 three years.

31 (2) A tax exempt entity shall provide the utility serving such entity  
32 with notice of the intent to install a renewable energy facility at least 90  
33 days prior to initially energizing the facility. Upon notification by the tax  
34 exempt entity of the intent to construct a renewable energy facility, the  
35 utility shall provide the tax exempt entity a written estimate of all costs  
36 that will be incurred by the utility and billed to the entity to accommodate

1 the interconnection. The tax exempt entity may be required to reimburse  
2 the utility for any equipment or facilities required as a result of the  
3 installation by the tax exempt entity of the renewable energy facility. The  
4 tax exempt entity shall notify the utility prior to the initial energizing and  
5 start-up testing of the renewable energy facility, and the utility shall have  
6 the right to have a representative present at such test.

7 (3) Any renewable energy credits created as a result of construction  
8 of renewable energy facilities pursuant to this section shall be transferred  
9 and assigned to the utility serving the tax exempt entity.

10 (c) In exercising the purchase option in subsection (b), the tax exempt  
11 entity shall enter into a contract with the utility that includes the following  
12 terms and conditions:

13 (1) The utility will supply, own and maintain all necessary meters and  
14 associated equipment utilized for billing. In addition, and for the purposes  
15 of monitoring the generation and load of the tax exempt entity, the utility  
16 may install at its expense, load research metering. The tax exempt entity or  
17 renewable energy generator shall supply, at no expense to the utility, a  
18 suitable location for meters and associated equipment used for billing and  
19 for load research;

20 (2) compensation for energy supplied to the utility by the tax exempt  
21 entity shall be not less than 150% of the utility's monthly system average  
22 cost of energy per kilowatt hour. The utility may credit such compensation  
23 to the tax exempt entity's account or pay such compensation to the entity at  
24 least annually or when the total compensation due equals \$25 or more;

25 (3) in addition to the existing customer service and any other charges,  
26 the utility shall charge the tax exempt entity no more than twice the state  
27 corporation commission approved customer service charge per month as a  
28 provisional charge for being available to supply the entity's electric load;

29 (4) the tax exempt entity or renewable energy generator shall furnish,  
30 install, operate and maintain in good order and repair and without cost to  
31 the utility, such relays, locks and seals, breakers, automatic synchronizer  
32 and other control and protective apparatus as shall be designated by the  
33 utility as being required as suitable for the operation of the renewable  
34 energy facility in parallel with the utility's system. In addition, the utility  
35 may install, own and maintain a disconnecting device located near the  
36 electric meter or meters at no cost to the tax exempt entity or renewable  
37 energy generator. Interconnection facilities between the equipment of the  
38 tax exempt entity or renewable energy generator and the equipment of the  
39 utility shall be accessible at all reasonable times to utility personnel; and

40 (5) the tax exempt entity or renewable energy generator shall meet all  
41 applicable safety, performance, interconnection and reliability standards  
42 established by the national electrical code, the national electrical safety  
43 code, the institute of electrical and electronics engineers, underwriters

1 laboratories, the federal energy regulatory commission and any local  
2 governing authorities. A utility may require that a renewable energy  
3 facility contain a switch, circuit breaker, fuse or other easily accessible  
4 device or feature located in immediate proximity to the facility's metering  
5 equipment that would allow a utility worker the ability to manually and  
6 instantly disconnect the unit from the utility's electric distribution system.

7 (d) A utility may not require a tax exempt entity or renewable energy  
8 generator that meets the standards in this section to comply with additional  
9 safety or performance standards, install any additional controls, perform  
10 or pay for additional tests or purchase additional liability insurance for a  
11 renewable energy facility. A utility shall not be liable directly or indirectly  
12 for permitting or continuing to allow an attachment of a renewable energy  
13 facility or for the acts or omissions of the tax exempt entity or renewable  
14 energy generator that cause loss or injury, including death, to any third  
15 party.

16 (e) Service under any contract entered into pursuant to this section  
17 shall be subject to either the utility's rules and regulations on file with the  
18 state corporation commission, which shall include a standard  
19 interconnection process and requirements for such utility's system, or the  
20 current federal energy regulatory commission interconnection procedures  
21 and regulations.

22 (f) In any case where the tax exempt entity and the utility cannot  
23 agree to terms and conditions of any contract provided for by this section,  
24 the state corporation commission shall establish the terms and conditions  
25 for such contract.

26 Sec. 2. K.S.A. 2013 Supp. 66-104 is hereby amended to read as  
27 follows: 66-104. (a) The term "public utility," as used in this act, shall be  
28 construed to mean every corporation, company, individual, association of  
29 persons, their trustees, lessees or receivers, that now or hereafter may own,  
30 control, operate or manage, except for private use, any equipment, plant or  
31 generating machinery, or any part thereof, for the transmission of  
32 telephone messages or for the transmission of telegraph messages in or  
33 through any part of the state, or the conveyance of oil and gas through  
34 pipelines in or through any part of the state, except pipelines less than 15  
35 miles in length and not operated in connection with or for the general  
36 commercial supply of gas or oil, and all companies for the production,  
37 transmission, delivery or furnishing of heat, light, water or power. No  
38 cooperative, cooperative society, nonprofit or mutual corporation or  
39 association which is engaged solely in furnishing telephone service to  
40 subscribers from one telephone line without owning or operating its own  
41 separate central office facilities, shall be subject to the jurisdiction and  
42 control of the commission as provided herein, except that it shall not  
43 construct or extend its facilities across or beyond the territorial boundaries

1 of any telephone company or cooperative without first obtaining approval  
2 of the commission. As used herein, the term "transmission of telephone  
3 messages" shall include the transmission by wire or other means of any  
4 voice, data, signals or facsimile communications, including all such  
5 communications now in existence or as may be developed in the future.

6 (b) The term "public utility" shall also include that portion of every  
7 municipally owned or operated electric or gas utility located in an area  
8 outside of and more than three miles from the corporate limits of such  
9 municipality, but regulation of the rates, charges and terms and conditions  
10 of service of such utility within such area shall be subject to commission  
11 regulation only as provided in K.S.A. 2013 Supp. 66-104f, and  
12 amendments thereto. Nothing in this act shall apply to a municipally  
13 owned or operated utility, or portion thereof, located within the corporate  
14 limits of such municipality or located outside of such corporate limits but  
15 within three miles thereof except as provided in K.S.A. 66-131a, and  
16 amendments thereto.

17 (c) Except as herein provided, the power and authority to control and  
18 regulate all public utilities and common carriers situated and operated  
19 wholly or principally within any city or principally operated for the benefit  
20 of such city or its people, shall be vested exclusively in such city, subject  
21 only to the right to apply for relief to the corporation commission as  
22 provided in K.S.A. 66-133, and amendments thereto, and to the provisions  
23 of K.S.A. 66-104e, and amendments thereto. A transit system principally  
24 engaged in rendering local transportation service in and between  
25 contiguous cities in this and another state by means of street railway,  
26 trolley bus and motor bus lines, or any combination thereof, shall be  
27 deemed to be a public utility as that term is used in this act and, as such,  
28 shall be subject to the jurisdiction of the commission.

29 (d) The term "public utility" shall not include any activity of an  
30 otherwise jurisdictional corporation, company, individual, association of  
31 persons, their trustees, lessees or receivers as to the marketing or sale of  
32 compressed natural gas for end use as motor vehicle fuel.

33 (e) At the option of an otherwise jurisdictional entity, the term "public  
34 utility" shall not include any activity or facility of such entity as to the  
35 generation, marketing and sale of electricity generated by an electric  
36 generation facility or addition to an electric generation facility which:

37 (1) Is newly constructed and placed in service on or after January 1,  
38 2001; and

39 (2) is not in the rate base of: (A) An electric public utility that is  
40 subject to rate regulation by the state corporation commission; (B) any  
41 cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or  
42 any nonstock member-owned cooperative corporation incorporated in this  
43 state; or (C) a municipally owned or operated electric utility.

1 (f) Additional generating capacity achieved through efficiency gains  
2 by refurbishing or replacing existing equipment at generating facilities  
3 placed in service before January 1, 2001, shall not qualify under  
4 subsection (e).

5 (g) For purposes of the authority to appropriate property through  
6 eminent domain, the term "public utility" shall not include any activity for  
7 the siting or placement of wind powered electrical generators or turbines,  
8 including the towers.

9 (h) *The term "public utility" shall not include any renewable energy*  
10 *generator, as defined in section 1, and amendments thereto, for the*  
11 *generator's association with a renewable energy facility, as defined in*  
12 *section 1, and amendments thereto.*

13 Sec. 3. K.S.A. 66-1,170 is hereby amended to read as follows: 66-  
14 1,170. As used in this act:

15 (a) "Distribution line" means an electric line used to furnish retail  
16 electric service, including any line from a distribution substation to an  
17 electric consuming facility; but such term does not include a transmission  
18 facility used for the bulk transfer of energy even if such energy is reduced  
19 in voltage and used as station power.

20 (b) "Electric consuming facility" means any entity which utilizes  
21 electric energy from a central station service.

22 (c) "Commission" means the state corporation commission of the  
23 state of Kansas.

24 (d) "Retail electric supplier" means any person, firm, corporation,  
25 municipality, association or cooperative corporation engaged in the  
26 furnishing of retail electric service, *but does not include a renewable*  
27 *energy generator, as defined in section 1, and amendments thereto, for the*  
28 *generator's association with a renewable energy facility, as defined in*  
29 *section 1, and amendments thereto.*

30 (e) "Certified territory" means an electric service territory certified to  
31 a retail electric supplier pursuant to this act.

32 (f) "Existing distribution line" means a distribution line which is in  
33 existence on the effective date of this act, and which is being or has been  
34 used as such.

35 (g) "Single certified service territory" means that service area in  
36 which only one retail electric supplier has been granted a service  
37 certificate by the commission.

38 (h) "Dual certified service territory" means that service area where  
39 more than one retail electric supplier has been granted a service certificate  
40 by the commission.

41 (i) "Station power" means electric energy used for operating  
42 equipment necessary for the process of generating electricity at any  
43 generating plant owned by a utility or a generating plant specified in

1 subsection (e) of K.S.A. 66-104, and amendments thereto, and placed in  
2 use on or after January 1, 2002, whether such electrical energy is generated  
3 at such generating plant or provided through the adjacent transformation  
4 and transmission interconnect, but does not include electric energy used  
5 for heating, lighting, air conditioning and office needs of the buildings at a  
6 generating plant site.

7 Sec. 4. K.S.A. 66-1,170 and K.S.A. 2013 Supp. 66-104 are hereby  
8 repealed.

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