SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 82

As Amended by Senate Committee of the Whole

Brief*

SB 82 would amend existing law regarding the state's renewable energy portfolio standard (RPS). Currently, the RPS requires utilities to generate or purchase electricity generated from renewable energy resources, which counts toward the utilities' RPS requirement. The utilities are required to meet a specific percent of their peak demand with renewable generation capacity by calendar years specified in statute.

Renewable Energy Portfolio Standard

The bill would amend the years 2016 and 2020 to 2018 and 2024 for the years that renewable energy credits could be used to meet a portion of RPS requirements.

The bill also would amend the various calendar years by stating when a utility is required to use a certain percentage of renewable energy as part of the RPS requirement:

- Ten percent would be required from 2011 to 2017, rather than 2015, as required in current law;
- Fifteen percent would be required from 2018 to 2023, rather than 2016 to 2019, as required in current law; and
- Twenty percent would be required starting in 2024, rather than 2020, as required in current law.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

For both the 15 and 20 percent requirements, the Kansas Corporation Commission (KCC) could delay a utility's RPS requirement for a specified period of time upon the utility showing good cause to do so. The bill would define good cause as including availability of firm transmission service, excessive costs to retail electric customers, or any other cause deemed acceptable by the KCC.

Determination of Firm Transmission Service and Retail Rate Impact

The bill would require the KCC to open any necessary dockets to determine the availability of firm transmission service and the projected retail rate impact for affected utilities to satisfy the RPS. The KCC would be required to determine this availability for the 15 percent RPS by January 1, 2016, and for the 20 percent RPS by January 1, 2020. As part of this study, the KCC would examine the following:

- Electric rates in nearby states;
- The projected availability of federal production tax credits or other incentives for renewable energy generation and the impact the credits could have on retail rates;
- The impact any federal laws, rules or regulations, including potential requirements such as a federal RPS or other regulations, could have on retail electric rates; and
- Any federal requirements that impact the costs of the construction, maintenance, or operation of non-renewable energy resources.

The KCC would be required to report any findings of the dockets to the Senate Committee on Utilities, the House Committee on Energy and Environment, and the House Committee on Utilities and Telecommunications.

In addition, the KCC would determine whether investment in renewable energy resources required to meet the RPS is a prudent expenditure and causes the affected utility's total revenue requirement to increase less than one percent more than a prudent investment in a non-renewable energy resource needed to meet the utility's current demand.

The KCC would be required, in annually determining the annual statewide retail rate impact resulting from affected utilities meeting the RPS, to examine factors including, but not limited to:

- The construction, generation, or acquisition of electricity generated from renewable energy resources or the purchase of renewable energy credits;
- The costs of construction, operation, and maintenance of any generation used to support a renewable energy resource; and
- Any transmission lines needed to move electricity from renewable energy resources to retail customers and the transmission line losses incurred on such transmission lines.

The bill also would amend the names of standing committees that would receive a report of the annual statewide retail rate impact.

Exemption from Penalties

The bill would direct the KCC to exempt an affected utility from administrative penalties for an individual compliance year if the utility demonstrates the costs the utility would have incurred in complying with the RPS for that year are not prudent.

Definitions

The bill would define in statute the term "excessive costs to retail electric customers" and "firm transmission service."

Background

The bill was introduced by the Senate Committee on Utilities at the request of Senator Apple.

At the hearing on the bill, proponents included a representative of the Kansas Policy Institute and a member of the public. Both proponents cited information on increasing utility rates as a result of supporting the renewable energy industry.

Opponents of the bill included representatives of BP Wind Energy, CPV Renewable Energy Company, EDP Renewables North America, Iberdrola Renewables, Infinity Wind Power, Kansans for Clean Energy, Natural Resources Defense Council, NextEra Energy Resources, Siemens Energy, The Wind Coalition, Vestas-American Wind Industry, and a member of the public. Opponents stated the current RPS is responsible for increased economic development in renewable energy generation across the state. In addition, the opponents stated all utilities in the state have met the current 10 percent requirement and all but two utilities have met the current 15 percent requirement, which is not required to be met until calendar years 2016 to 2019.

Neutral testimony on the bill was provided by ITC Great Plains, Kansas Farm Bureau, KCP&L, and Westar Energy.

The Senate Committee of the Whole amended the bill to add a definition for "excessive costs to retail electric customers" and modify the definition of 'firm transmission service." The amendments also included requiring the KCC to open any dockets necessary to determine availability of firm transmission service and the projected retail rate impact;

whether investment in renewable energy resources is prudent; and if costs incurred with meeting the RPS are not prudent, that these utilities would not incur administrative penalties.

The fiscal note on the original version of the bill provided by the Division of the Budget states the passage of the bill would have no fiscal effect for the KCC or the Citizens' Utility Ratepayer Board.