

HOUSE BILL No. 2036

By Committee on Vision 2020

1-16

1 AN ACT concerning electricity; sale of renewable energy; public utility,
2 definitions, exceptions; amending K.S.A. 66-1,170 and K.S.A. 2014
3 Supp. 66-104 and repealing the existing sections.
4

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

6 New Section 1. (a) As used in this section:

7 (1) "Ancillary services" means those services necessary to support the
8 transmission of electric power from the renewable energy supplier to the
9 renewable energy customer given the obligations of utilities in impacted
10 certified territories to maintain reliable operations of the interconnected
11 transmission system.

12 (2) "Commission" means the state corporation commission.

13 (3) "Renewable energy customer" means any person who: (A) Elects
14 to purchase electricity from a renewable energy supplier; and

15 (B) either has an ownership interest in the renewable energy supplier
16 or has part of the integrated generating, storage or controls package of the
17 renewable energy supplier physically located on their premises.

18 (4) "Renewable energy supplier" means any corporation, company,
19 individual, association of persons, their trustees, lessees or receivers that
20 uses a renewable energy resource, as defined in K.S.A. 66-1257, and
21 amendments thereto, to generate or store electricity at a facility and is a
22 qualifying small power production facility pursuant to 16 U.S.C. § 796 as
23 in effect on the effective date of this act, but does not include an electric
24 generating facility whose costs have been included in a utility's rates as a
25 facility providing electric service to the utility's system.

26 (5) "Utility" means an electric public utility as defined in K.S.A. 66-
27 101a, and amendments thereto.

28 (b) (1) Any electric customer shall have the option to purchase
29 electricity directly from a renewable energy supplier by: (A) Providing 180
30 days' notice of such intent to the local certificated utility serving the
31 customer and the commission; and

32 (B) demonstrating the ability and commitment to self-generate at
33 least 50% of the customer's electric needs unless the opportunity to
34 directly purchase firm renewable energy is approved by the commission.
35 The commission may establish any criteria for determining a customer's
36 ability and level of commitment to self-generate.

1 (2) The commission shall approve appropriate tariffs for the delivery
2 of electricity by a utility from a renewable energy supplier to a renewable
3 energy customer. Such tariffs shall include appropriate retail transmission
4 and distribution charges, any customer charges, standby rates and any
5 ancillary services requested by a customer.

6 (c) In exercising the purchase option in subsection (b), the renewable
7 energy customer shall enter into a contract with the local certificated utility
8 that includes the following terms and conditions:

9 (1) The renewable energy customer shall furnish, install, operate and
10 maintain in good order and repair and without cost to the utility, such
11 relays, locks and seals, breakers, automatic synchronizers and other
12 control and protective apparatuses as shall be designated by the utility as
13 being required as suitable for the transmission and distribution of
14 electricity on the utility's system. In addition, the utility may install, own
15 and maintain a disconnecting device located near the electric meter or
16 meters. Interconnection facilities between the customer's and the
17 utility's equipment shall be accessible at all reasonable times to utility
18 personnel;

19 (2) the renewable energy customer shall meet all applicable safety,
20 performance, interconnection and reliability standards established by the
21 national electrical code, the national electrical safety code, the institute of
22 electrical and electronics engineers, underwriters laboratories, the federal
23 energy regulatory commission and any local governing authorities. A
24 utility may require that a customer's system contain a switch, circuit
25 breaker, fuse or other easily accessible device or feature located in
26 immediate proximity to the customer's metering equipment that would
27 allow a utility worker the ability to manually and instantly disconnect the
28 unit from the utility's electric distribution system;

29 (3) the utility may not require a renewable energy supplier or
30 renewable energy customer whose facilities meet the standards in this
31 section to comply with additional safety or performance standards or
32 perform or pay for additional tests or purchase additional liability
33 insurance. A utility shall not be liable directly or indirectly for permitting
34 or continuing to allow an attachment of a renewable energy supplier or for
35 the acts or omissions of the renewable energy customer that cause loss or
36 injury, including death, to any third party;

37 (4) service provided by a utility to a renewable energy customer
38 pursuant to this section shall be subject to either the utility's rules and
39 regulations on file with the state corporation commission, which shall
40 include a standard interconnection process and requirements for such
41 utility's system, or the current federal energy regulatory commission
42 interconnection procedures and regulations;

43 (5) in addition to the existing customer service and any other charges,

1 the utility may charge the customer a commission approved provisional
2 service charge per month as a charge for being available to supply the
3 customer's electric load on an as-needed basis; and

4 (6) in any case where the renewable energy customer and the utility
5 cannot agree to terms and conditions of any contract provided for by this
6 section, the commission shall establish the terms and conditions for such
7 contract.

8 (d) The commission may promulgate any rules and regulations
9 necessary to effectuate the provisions of this act.

10 Sec. 2. K.S.A. 2014 Supp. 66-104 is hereby amended to read as
11 follows: 66-104. (a) The term "public utility," as used in this act, shall be
12 construed to mean every corporation, company, individual, association of
13 persons, their trustees, lessees or receivers, that now or hereafter may own,
14 control, operate or manage, except for private use, any equipment, plant or
15 generating machinery, or any part thereof, for the transmission of
16 telephone messages or for the transmission of telegraph messages in or
17 through any part of the state, or the conveyance of oil and gas through
18 pipelines in or through any part of the state, except pipelines less than 15
19 miles in length and not operated in connection with or for the general
20 commercial supply of gas or oil, and all companies for the production,
21 transmission, delivery or furnishing of heat, light, water or power. No
22 cooperative, cooperative society, nonprofit or mutual corporation or
23 association which is engaged solely in furnishing telephone service to
24 subscribers from one telephone line without owning or operating its own
25 separate central office facilities, shall be subject to the jurisdiction and
26 control of the commission as provided herein, except that it shall not
27 construct or extend its facilities across or beyond the territorial boundaries
28 of any telephone company or cooperative without first obtaining approval
29 of the commission. As used herein, the term "transmission of telephone
30 messages" shall include the transmission by wire or other means of any
31 voice, data, signals or facsimile communications, including all such
32 communications now in existence or as may be developed in the future.

33 (b) The term "public utility" shall also include that portion of every
34 municipally owned or operated electric or gas utility located in an area
35 outside of and more than three miles from the corporate limits of such
36 municipality, but regulation of the rates, charges and terms and conditions
37 of service of such utility within such area shall be subject to commission
38 regulation only as provided in K.S.A. 2014 Supp. 66-104f, and
39 amendments thereto. Nothing in this act shall apply to a municipally
40 owned or operated utility, or portion thereof, located within the corporate
41 limits of such municipality or located outside of such corporate limits but
42 within three miles thereof except as provided in K.S.A. 66-131a, and
43 amendments thereto.

1 (c) Except as herein provided, the power and authority to control and
2 regulate all public utilities and common carriers situated and operated
3 wholly or principally within any city or principally operated for the benefit
4 of such city or its people, shall be vested exclusively in such city, subject
5 only to the right to apply for relief to the corporation commission as
6 provided in K.S.A. 66-133, and amendments thereto, and to the provisions
7 of K.S.A. 66-104e, and amendments thereto. A transit system principally
8 engaged in rendering local transportation service in and between
9 contiguous cities in this and another state by means of street railway,
10 trolley bus and motor bus lines, or any combination thereof, shall be
11 deemed to be a public utility as that term is used in this act and, as such,
12 shall be subject to the jurisdiction of the commission.

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

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

21 (1) Is newly constructed and placed in service on or after January 1,
22 2001; and

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

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

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

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

40 Sec. 3. K.S.A. 66-1,170 is hereby amended to read as follows: 66-
41 1,170. As used in this act:

42 (a) "Distribution line" means an electric line used to furnish retail
43 electric service, including any line from a distribution substation to an

1 electric consuming facility; but such term does not include a transmission
2 facility used for the bulk transfer of energy even if such energy is reduced
3 in voltage and used as station power.

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

6 (c) "Commission" means the state corporation commission of the
7 state of Kansas.

8 (d) "Retail electric supplier" means any person, firm, corporation,
9 municipality, association or cooperative corporation engaged in the
10 furnishing of retail electric service, *but does not include a renewable*
11 *energy generator, as defined in section 1, and amendments thereto, for the*
12 *generator's association with a renewable energy facility, as defined in*
13 *section 1, and amendments thereto.*

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

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

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

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

25 (i) "Station power" means electric energy used for operating
26 equipment necessary for the process of generating electricity at any
27 generating plant owned by a utility or a generating plant specified in
28 ~~subsection (e) of K.S.A. 66-104(e)~~, and amendments thereto, and placed in
29 use on or after January 1, 2002, whether such electrical energy is generated
30 at such generating plant or provided through the adjacent transformation
31 and transmission interconnect, but does not include electric energy used
32 for heating, lighting, air conditioning and office needs of the buildings at a
33 generating plant site.

34 Sec. 4. K.S.A. 66-1,170 and K.S.A. 2014 Supp. 66-104 are hereby
35 repealed.

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