

HOUSE BILL No. 2037

By Committee on Vision 2020

1-16

1 AN ACT concerning electricity; relating to renewable energy generation;
2 public utility, definitions, exceptions; amending K.S.A. 66-1,170 and
3 K.S.A. 2014 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: (1) "Commission" means
7 the state corporation commission.

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

13 (3) "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 (4) "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 (5) "Utility" means electric public utility as defined in K.S.A. 66-
24 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 located on that tax exempt entity's location. A renewable
28 energy facility shall not exceed the tax exempt entity's baseline annual
29 usage over the past three years, or anticipated load if new construction has
30 been completed within the past 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 (c) In exercising the purchase option in subsection (b), the tax exempt
8 entity shall enter into a contract with the utility that includes the following
9 terms and conditions:

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

17 (2) compensation for energy supplied to the utility by the tax exempt
18 entity shall be established at rates approved by the commission. The utility
19 may credit such compensation to the tax exempt entity's account or pay
20 such compensation to the entity at least annually or when the total
21 compensation due equals \$25 or more;

22 (3) in addition to the existing customer service and any other charges,
23 the utility may charge the tax exempt entity a provisional service charge
24 approved by the commission for being available to supply the entity's
25 electric load on an as-needed basis;

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

37 (5) the tax exempt entity or renewable energy generator shall meet all
38 applicable safety, performance, interconnection and reliability standards
39 established by the national electrical code, the national electrical safety
40 code, the institute of electrical and electronics engineers, underwriters
41 laboratories, the federal energy regulatory commission and any local
42 governing authorities. A utility may require that a renewable energy
43 facility contain a switch, circuit breaker, fuse or other easily accessible

1 device or feature located in immediate proximity to the facility's metering
2 equipment that would allow a utility worker the ability to manually and
3 instantly disconnect the unit from the utility's electric distribution system.

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

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

18 (f) The commission may promulgate any rules and regulations
19 necessary to effectuate the provisions of this act.

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

43 (b) The term "public utility" shall also include that portion of every

1 municipally owned or operated electric or gas utility located in an area
2 outside of and more than three miles from the corporate limits of such
3 municipality, but regulation of the rates, charges and terms and conditions
4 of service of such utility within such area shall be subject to commission
5 regulation only as provided in K.S.A. 2014 Supp. 66-104f, and
6 amendments thereto. Nothing in this act shall apply to a municipally
7 owned or operated utility, or portion thereof, located within the corporate
8 limits of such municipality or located outside of such corporate limits but
9 within three miles thereof except as provided in K.S.A. 66-131a, and
10 amendments thereto.

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

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

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

31 (1) Is newly constructed and placed in service on or after January 1,
32 2001; and

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

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

42 (g) For purposes of the authority to appropriate property through
43 eminent domain, the term "public utility" shall not include any activity for

1 the siting or placement of wind powered electrical generators or turbines,
2 including the towers.

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

7 Sec. 3. K.S.A. 66-1,170 is hereby amended to read as follows: 66-
8 1,170. As used in this act:

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

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

16 (c) "Commission" means the state corporation commission of the
17 state of Kansas.

18 (d) "Retail electric supplier" means any person, firm, corporation,
19 municipality, association or cooperative corporation engaged in the
20 furnishing of retail electric service, *but does not include a renewable*
21 *energy generator, as defined in section 1, and amendments thereto, for the*
22 *generator's association with a renewable energy facility, as defined in*
23 *section 1, and amendments thereto.*

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

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

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

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

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

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

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