

SENATE BILL No. 355

By Committee on Utilities

2-1

1 AN ACT concerning utilities; relating to electric cooperatives; concerning
2 the state corporation commission, regulation of charges or fees for
3 certain transmission services; amending K.S.A. 2017 Supp. 66-104d
4 and repealing the existing section.

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

7 Section 1. K.S.A. 2017 Supp. 66-104d is hereby amended to read as
8 follows: 66-104d. (a) As used in this section, "cooperative" means any: (1)
9 Corporation organized under the electric cooperative act, K.S.A. 17-4601
10 et seq., and amendments thereto, or which becomes subject to the electric
11 cooperative act in the manner therein provided; ~~or any~~ (2) limited liability
12 company or corporation providing electric service at wholesale in the state
13 of Kansas that is owned by four or more electric cooperatives that provide
14 retail service in the state of Kansas; or ~~any~~ (3) member-owned corporation
15 formed prior to 2004.

16 (b) Except as otherwise provided in subsection (f), a cooperative may
17 elect to be exempt from the jurisdiction, regulation, supervision and
18 control of the state corporation commission by complying with the
19 provisions of subsection (c).

20 (c) To be exempt under subsection (b), a cooperative shall poll its
21 members as follows:

22 (1) An election under this subsection may be called by the board of
23 trustees or shall be called not less than 180 days after receipt of a valid
24 petition signed by not less than 10% of the members of the cooperative.

25 (2) The proposition for deregulation shall be presented to a meeting
26 of the members, the notice of which shall set forth the proposition for
27 deregulation and the time and place of the meeting. Notice to the members
28 shall be written and delivered not less than 21 nor more than 45 days
29 before the date of the meeting.

30 (3) If the cooperative mails information to its members regarding the
31 proposition for deregulation other than notice of the election and the
32 ballot, the cooperative shall also include in such mailing any information
33 in opposition to the proposition that is submitted by petition signed by not
34 less than 1% of the cooperative's members. All expenses incidental to
35 mailing the additional information, including any additional postage
36 required to mail such additional information, must be paid by the

1 signatories to the petition.

2 (4) If the proposition for deregulation is approved by the affirmative
3 vote of not less than a majority of the members voting on the proposition,
4 the cooperative shall notify the state corporation commission in writing of
5 the results within 10 days after the date of the election.

6 (5) Voting on the proposition for deregulation shall be by mail ballot.

7 (d) A cooperative exempt under this section may elect to terminate its
8 exemption in the same manner as prescribed in subsection (c).

9 (e) An election under subsection (c) or (d) may be held not more
10 often than once every two years.

11 (f) Nothing in this section shall be construed to affect the single
12 certified service territory of a cooperative or the authority of the state
13 corporation commission, as otherwise provided by law, over a cooperative
14 with regard to: (1) Service territory; (2) charges, fees or tariffs for
15 transmission services, *except those charges or fees for transmission*
16 *services that are recovered through an open access transmission tariff of a*
17 *regional transmission organization and that has its rates approved by the*
18 *federal energy regulatory commission; (3) sales of power for resale, other*
19 *than sales between a cooperative, as defined in subsection (a), that does*
20 *not provide retail electric service and an owner of such cooperative; and*
21 *(4) wire stringing and transmission line siting, pursuant to K.S.A. 66-131,*
22 *66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto.*
23 *Nothing in this subsection shall be construed to affect the authority of the*
24 *commission pursuant to K.S.A. 66-144, and amendments thereto.*

25 (g) (1) Notwithstanding a cooperative's election to be exempt under
26 this section, the commission shall investigate all rates, joint rates, tolls,
27 charges and exactions, classifications and schedules of rates of such
28 cooperative if there is filed with the commission, not more than one year
29 after a change in such cooperative's rates, joint rates, tolls, charges and
30 exactions, classifications or schedules of rates, a petition in the case of a
31 retail distribution cooperative signed by not less than 5% of all the
32 cooperative's customers or 3% of the cooperative's customers from any
33 one rate class, or, in the case of a generation and transmission cooperative,
34 not less than 20% of the generation and transmission cooperative's
35 members or 5% of the aggregate retail customers of such members. If,
36 after investigation, the commission finds that such rates, joint rates, tolls,
37 charges or exactions, classifications or schedules of rates are unjust,
38 unreasonable, unjustly discriminatory or unduly preferential, the
39 commission shall have the power to fix and order substituted therefor such
40 rates, joint rates, tolls, charges and exactions, classifications or schedules
41 of rates as are just and reasonable.

42 (2) The cooperative's rates, joint rates, tolls, charges and exactions,
43 classifications or schedules of rates complained of shall remain in effect

1 subject to change or refund pending the state corporation commission's
2 investigation and final order.

3 (3) Any customer of a cooperative wishing to petition the
4 commission pursuant to subsection (g)(1) may request from the
5 cooperative the names, addresses and rate classifications of all the
6 cooperative's customers or of the cooperative's customers from any one or
7 more rate classes. The cooperative, within 21 days after receipt of the
8 request, shall furnish to the customer the requested names, addresses and
9 rate classifications and may require the customer to pay the reasonable
10 costs thereof.

11 (h) (1) If a cooperative is exempt under this section, not less than 10
12 days' notice of the time and place of any meeting of the board of trustees at
13 which rate changes are to be discussed and voted on shall be given to all
14 members of the cooperative and such meeting shall be open to all
15 members.

16 (2) Violations of subsection (h)(1) shall be subject to civil penalties
17 and enforcement in the same manner as provided by K.S.A. 75-4320 and
18 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et
19 seq., and amendments thereto.

20 (i) (1) Any cooperative exempt under this section shall maintain a
21 schedule of rates and charges at the cooperative headquarters and shall
22 make copies of such schedule of rates and charges available to the general
23 public during regular business hours.

24 (2) Any cooperative which fails, neglects or refuses to maintain such
25 copies of schedule of rates and charges under this subsection shall be
26 subject to a civil penalty of not more than \$500.

27 (j) A cooperative that has elected to be exempt under the provisions
28 of subsection (b) shall include a provision in its notice to customers, either
29 before or after a rate change, of the customer's right to request the
30 commission to review the rate change, as allowed in subsection (g).

31 (k) Notwithstanding any provision of law to the contrary, a
32 cooperative, as defined in subsection (a), shall be subject to the provisions
33 of the renewable energy standards act.

34 Sec. 2. K.S.A. 2017 Supp. 66-104d is hereby repealed.

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