

Renewable Generation and Transmission: KCC's Role and Jurisdiction

Senate Select Committee on Wind Turbine Lighting
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KCC's Role and Jurisdiction

- The KCC has a limited role for the majority of renewable generation built by developers in Kansas.
- The KCC does have its traditional rate-making authority over renewable generation placed into rate base for all jurisdictional utilities.

Renewable Generation

Non-Jurisdictional Entities:

K.S.A. 66-104(e):

(1) Except as provided in paragraph (2), at the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility that:

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

(B) is not in the rate base of:

(i) An electric public utility that is subject to rate regulation by the state corporation commission;

(ii) any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or

(iii) a municipally owned or operated electric utility.

(2) The provisions of this subsection shall not be construed to affect the authority of the state corporation commission to regulate any activity or facility of an otherwise jurisdictional entity with regard to wire stringing pursuant to K.S.A. 66-183 et seq., and amendments thereto.

Renewable Generation

Non-Jurisdictional Entities

K.S.A. 66-104(e) allows:

- Any developer to construct renewable generation facilities that sell wholesale power without becoming a public utility.
- To opt out of becoming a regulated public utility, the developer only needs to provide notice to the KCC that it is opting out (see attached example).
- The developer is not subject to the Kansas Electric Transmission Line Siting Act (K.S.A. 66-1,177 *et seq*)
- The developer is also not required to obtain a certificate of public convenience and necessity under K.S.A. 66-131.
- The developer *may not* exercise the right of eminent domain under provisions of Kansas Law that grant eminent domain powers to public utilities. Staff considers any such representations a forfeiture of the developer's option to exempt itself from public utility status.
- The developer is subject to the Commission's regulations with regard to wire stringing pursuant to K.S.A. 66-183 *et seq*. Wire stringing rules are KCC regulations with respect to the "support, maintenance, repair and reconstruction of electric lines" (K.A.R. 82-12-1 through 82-12-9).

Renewable Generation

Jurisdictional Utilities

- Renewable generation is subject to the same statutes and review as any other generation source for jurisdictional utilities. KCC electric jurisdictional utilities are comprised of Evergy, Liberty-Empire, and Southern Pioneer.
- Elements of KCC review include, but are not limited to:
 - Review of annual Integrated Resource Plan – Evergy only.
 - Determination of need and lowest reasonable cost option. Lowest-cost option analysis for renewable generation includes a comparison between what the utility could acquire a purchase power agreement for versus the utility owning the renewable generation.
 - Potential prudence review under K.S.A. 66-128 *et seq.* This series of statutes sets the legal framework under which the KCC “shall have the power to evaluate the efficiency or prudence of acquisition, construction, or operating practices of that utility. *In the event the state corporation commission determines that a portion of the costs of acquisition, construction or operation were incurred due in whole or in part to a lack of efficiency or prudence, or were incurred in the acquisition of construction of excess capacity, it shall have the power and authority to exclude all or a portion of those costs from the revenue requested by the utility.*”

Transmission Related to Renewable Generation

- Renewable generation facilities include transmission interconnection facilities that are also called a generator tie-lines. FERC has defined these tie-lines as facilities and equipment between the generating facility and the point of interconnection, including any modification, additions, or upgrades that are necessary to physically and electrically interconnect the generating facility to the transmission provider's transmission system.
- FERC has also determined that the interconnection facilities or tie-lines are sole-use, limited and discrete, radial in nature, and are *not* part of an integrated transmission network.
- All KCC jurisdictional utilities must comply with the line siting statute (K.S.A. 66-1,177).

Transmission Related to Renewable Generation

- Based on FERC's definitions, generator lead lines do not fall under KCC jurisdiction
- As noted previously, the KCC now has wire stringing jurisdiction based on the modification to K.S.A. 66-104(e) (2) during the 2021 Session (HB 2367).

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