

HOUSE BILL No. 2227

By Committee on Energy, Utilities and Telecommunications

1-30

1 AN ACT concerning energy; relating to electric public utilities;
2 authorizing certain sales of electricity pursuant to power purchase
3 agreements; exempting such sales from the retail electric suppliers act
4 and certain renewable energy suppliers from public utility regulation;
5 requiring utilities to enter into parallel generation contracts with certain
6 customers of the utility; amending K.S.A. 66-1,170, 66-1,184 and 66-
7 1264 and K.S.A. 2022 Supp. 66-104 and repealing the existing
8 sections.
9

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

11 New Section 1. (a) A renewable energy supplier shall be permitted to
12 sell the electricity generated by an eligible generation facility exclusively
13 to the host customer-generator pursuant to a power purchase agreement.
14 The eligible generation facility shall be subject to any interconnection and
15 other requirements imposed on customer-generators pursuant to K.S.A.
16 66-1,184 or 66-1263 et seq., and amendments thereto.

17 (b) As used in this section:

18 (1) "Eligible generation facility" means an electric generation facility
19 that:

20 (A) Uses solar photovoltaic cells and panels or a wind turbine to
21 generate electricity;

22 (B) is located on premises owned, operated, leased or otherwise
23 controlled by a host customer-generator;

24 (C) is designed to offset part or all of the host customer-generator's
25 electrical energy requirements; and

26 (D) is installed, owned and operated pursuant to the terms and
27 conditions of a power purchase agreement.

28 (2) "Host customer-generator" means any retail electric customer of a
29 utility and any successor or assign of a retail electric customer who is a
30 party to a power purchase agreement with a renewable energy supplier.

31 (3) "Power purchase agreement" means a contractual agreement
32 between a renewable energy supplier and a host customer-generator that
33 sets forth the terms and conditions in which the renewable energy supplier
34 agrees to install, own and operate an eligible generation facility on
35 premises owned, operated, leased or otherwise controlled by the host
36 customer-generator, and the host customer-generator agrees to purchase

1 the electricity produced by such facility from the renewable energy
2 supplier for a defined period of time.

3 (4) "Renewable energy supplier" means any person, firm, partnership,
4 corporation or any other entity that transacts business in the state for the
5 purpose of installing, owning and operating an eligible generation facility
6 pursuant to a power purchase agreement.

7 (5) "Utility" means an electric public utility as defined in K.S.A. 66-
8 101a, and amendments thereto, any cooperative as defined in K.S.A. 17-
9 4603, and amendments thereto, or a municipally owned or operated
10 electric utility that provides retail electric service.

11 Sec. 2. K.S.A. 66-104 is hereby amended to read as follows: 66-104.

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

34 (b) The term "public utility" shall also include that portion of every
35 municipally owned or operated electric or gas utility located in an area
36 outside of and more than three miles from the corporate limits of such
37 municipality, but regulation of the rates, charges and terms and conditions
38 of service of such utility within such area shall be subject to commission
39 regulation only as provided in K.S.A. 66-104f, and amendments thereto.
40 Nothing in this act shall apply to a municipally owned or operated utility,
41 or portion thereof, located within the corporate limits of such municipality
42 or located outside of such corporate limits but within three miles thereof
43 ~~except as provided in K.S.A. 66-131a, and 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
4 benefit of such city or its people, shall be vested exclusively in such city,
5 subject only to the right to apply for relief to the corporation commission
6 as provided in K.S.A. 66-133, and amendments thereto, and to the
7 provisions of K.S.A. 66-104e, and amendments thereto. A transit system
8 principally engaged in rendering local transportation service in and
9 between contiguous cities in this and another state by means of street
10 railway, trolley bus and motor bus lines, or any combination thereof, shall
11 be 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:

14 (1) Any activity of an otherwise jurisdictional corporation, company,
15 individual, association of persons, their trustees, lessees or receivers as to
16 the marketing or sale of compressed natural gas for end use as motor
17 vehicle fuel; or

18 (2) *the activity of a renewable energy supplier with respect to the*
19 *supplier's association with an eligible generation facility pursuant to*
20 *section 1, and amendments thereto.*

21 (e) At the option of an otherwise jurisdictional entity, the term "public
22 utility" shall not include any activity or facility of such entity as to the
23 generation, marketing and sale of electricity generated by an electric
24 generation facility or addition to an electric generation facility ~~which~~ *that*:

25 (1) Is newly constructed and placed in service on or after January 1,
26 2001; and

27 (2) is not in the rate base of:

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

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

33 (C) a municipally owned or operated electric utility.

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

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

42 Sec. 3. K.S.A. 66-1,170 is hereby amended to read as follows: 66-
43 1,170. As used in this act:

1 (a) "Distribution line" means an electric line used to furnish retail
2 electric service, including any line from a distribution substation to an
3 electric consuming facility; ~~but such term~~, *except that "distribution line"*
4 *does not include a transmission facility used for the bulk transfer of energy*
5 *even if such energy is reduced in voltage and used as station power.*

6 (b) "Electric consuming facility" means any entity ~~which~~ *that* utilizes
7 electric energy from a central station service.

8 (c) "Commission" means the state corporation commission of the
9 state of Kansas.

10 (d) "Retail electric supplier" means any person, firm, corporation,
11 municipality, association or cooperative corporation engaged in the
12 furnishing of retail electric service, *except that "retail electric supplier"*
13 *does not include the activity of a renewable energy supplier with respect to*
14 *such supplier's association with an eligible generation facility pursuant to*
15 *section 1, and amendments thereto.*

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

18 (f) "Existing distribution line" means a distribution line ~~which~~ *that* is
19 in existence on the effective date of this act; and ~~which~~ is being or has
20 been used as such.

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

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

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

36 Sec. 4. K.S.A. 66-1,184 is hereby amended to read as follows: 66-
37 1,184. (a) Except as provided in subsection (b), every public utility ~~which~~
38 *that* provides retail electric services in this state shall enter into a contract
39 for parallel generation service with any person who is a customer of such
40 utility, upon request of such customer, whereby such customer may attach
41 or connect to the utility's delivery and metering system an apparatus or
42 device for the purpose of feeding excess electrical power ~~which~~ *that* is
43 generated by such customer's energy producing system into the utility's

1 system. No such apparatus or device shall either cause damage to the
 2 public utility's system or equipment or present an undue hazard to utility
 3 personnel. Every such contract shall include, but need not be limited to,
 4 provisions relating to fair and equitable compensation on such customer's
 5 monthly bill for energy supplied to the utility by such customer.

6 (b) (1) For purposes of this subsection:

7 (A) *"Hospital" means the same as defined in K.S.A. 65-425, and*
 8 *amendments thereto.*

9 (B) *"Military installation" means any base, camp, post, station, yard,*
 10 *center, homeport facility for any ship or other facility under the*
 11 *jurisdiction of the department of defense, including any leased facility,*
 12 *located in Kansas.*

13 (C) *"Religious organization" means any organization, church, body*
 14 *of communicants or group, or a society of individuals united for religious*
 15 *purposes, gathered in common membership for mutual edification in piety,*
 16 *worship and religious observances at a definite place.*

17 (D) *"School" means any school of a school district, accredited private*
 18 *primary or secondary school, postsecondary educational institution,*
 19 *community college, technical college, municipal university or accredited*
 20 *independent institution of postsecondary education.*

21 (E) *"Utility" means an electric public utility; as defined by K.S.A. 66-*
 22 *101a, and amendments thereto, any cooperative; as defined by K.S.A. 17-*
 23 *4603, and amendments thereto, or a nonstock member-owned electric*
 24 *cooperative corporation incorporated in this state; or a municipally owned*
 25 *or operated electric utility;.*

26 ~~(B) "School" means Cloud county community college and Dodge~~
 27 ~~City community college.~~

28 (2) (A) Every utility ~~which~~ *that* provides retail electric services in this
 29 state shall enter into a contract for parallel generation service with any
 30 person who is a customer of such utility, if such customer is a:

31 (i) Residential customer ~~of the utility and owns~~ *with* a renewable
 32 generator ~~with~~ *having* a capacity of 25 kilowatts or less; ~~or is a;~~

33 (ii) commercial customer ~~of the utility and owns~~ *with* a renewable
 34 generator ~~with~~ *having* a capacity of 200 kilowatts or less ~~or is a;~~

35 (iii) school ~~and owns~~, *religious organization or hospital with* a
 36 renewable generator ~~with~~ *having* a capacity of 1.5 megawatts or less; *or*

37 (iv) *a United States military installation.*

38 (B) Such generator shall be appropriately sized for such customer's
 39 anticipated electric load.

40 (C) A commercial customer who uses the operation of a renewable
 41 generator in connection with irrigation pumps shall not request more than
 42 10 irrigation pumps connected to renewable generators *to* be attached or
 43 connected to the utility's system.

1 (D) At the customer's delivery point on the customer's side of the
2 retail meter, such customer may attach or connect to the utility's delivery
3 and metering system an apparatus or device for the purpose of feeding
4 excess electrical power ~~which is~~ generated by such customer's energy
5 producing system into the utility's system. No such apparatus or device
6 shall either cause damage to the utility's system or equipment or present an
7 undue hazard to utility personnel. Every such contract shall include, but
8 need not be limited to, provisions relating to fair and equitable
9 compensation for energy supplied to the utility by such customer. Such
10 compensation shall be not less than 100% of the utility's monthly system
11 average cost of energy per kilowatt hour, except that in the case of
12 renewable generators with a capacity of 200 kilowatts or less, such
13 compensation shall be not less than 150% of the utility's monthly system
14 average cost of energy per kilowatt hour. A utility may credit such
15 compensation to the customer's account or pay such compensation to the
16 customer at least annually or when the total compensation due equals \$25
17 or more.

18 (3) A customer-generator of any investor owned utility shall have the
19 option of entering into a contract pursuant to this subsection ~~(b)~~ or
20 utilizing the net metering and easy connection act. The customer-generator
21 shall exercise the option in writing, filed with the utility.

22 (c) The following terms and conditions shall apply to contracts
23 entered into under subsection (a) or (b):

24 (1) The utility ~~will~~ shall supply, own; and maintain all necessary
25 meters and associated equipment utilized for billing. ~~In addition, and~~ For
26 the purposes of monitoring customer generation and load, the utility may
27 install at its expense; load research metering. The customer shall supply, at
28 no expense to the utility, a suitable location for meters and associated
29 equipment used for billing and for load research;

30 (2) for the purposes of insuring the safety and quality of utility
31 system power, the utility shall have the right to require the customer, at
32 certain times and as electrical operating conditions warrant, to limit the
33 production of electrical energy from the generating facility to an amount
34 no greater than the load at the customer's facility of which the generating
35 facility is a part;

36 (3) the customer shall furnish, install, operate; and maintain in good
37 order and repair ~~and~~, without cost to the utility, such relays, locks and
38 seals, breakers, automatic synchronizer; and other control and protective
39 apparatus as shall be designated by the utility as being required as suitable
40 for the operation of the generator in parallel with the utility's system. In
41 any case where the customer and the utility cannot agree to terms and
42 conditions of any such contract, the state corporation commission shall
43 establish the terms and conditions for such contract. ~~In addition;~~ The utility

1 may install, own; and maintain a disconnecting device located near the
2 electric meter or meters. Interconnection facilities between the customer's
3 and the utility's equipment shall be accessible at all reasonable times to
4 utility personnel. Upon notification by the customer of the customer's
5 intent to construct and install parallel generation, the utility shall provide
6 the customer a written estimate of all costs that will be incurred by the
7 utility and billed to the customer to accommodate the interconnection. The
8 customer may be required to reimburse the utility for any equipment or
9 facilities required as a result of the installation by the customer of
10 generation in parallel with the utility's service. The customer shall notify
11 the utility prior to the initial energizing and start-up testing of the
12 ~~customer-owned~~ generator; and the utility shall have the right to have a
13 representative present at such test;

14 (4) the utility may require a special agreement for conditions related
15 to technical and safety aspects of parallel generation; and

16 (5) the utility may limit the number and size of renewable generators
17 to be connected to the utility's system due to the capacity of the
18 distribution line to which such renewable generator would be connected,
19 and in no case shall the utility be obligated to purchase an amount greater
20 than 4% of such utility's peak power requirements.

21 (d) Service under any contract entered into under subsection (a) or (b)
22 shall be subject to either the utility's rules and regulations on file with the
23 state corporation commission, which shall include a standard
24 interconnection process and requirements for such utility's system, or the
25 current federal energy regulatory commission interconnection procedures
26 and regulations.

27 (e) In any case where the ~~owner of the renewable generator~~ *customer*
28 and the utility cannot agree to terms and conditions of any contract
29 provided for by this section, the state corporation commission shall
30 establish the terms and conditions for such contract.

31 (f) The governing body of any school desiring to proceed under this
32 section shall, prior to taking any action permitted by this section, make a
33 finding that either:

34 (1) Net energy cost savings will accrue to the school from such
35 renewable generation over a 20-year period; or

36 (2) that such renewable generation is a science project being
37 conducted for educational purposes and ~~that~~ such project may not recoup
38 the expenses of the project through energy cost savings. Any school
39 proceeding under this section may contract or enter into a finance, pledge,
40 loan or lease-purchase agreement with the Kansas development finance
41 authority as a means of financing the cost of such renewable generation.

42 (g) Each kilowatt of nameplate capacity of the parallel generation of
43 electricity provided for in this section shall count as 1.10 kilowatts toward

1 the compliance of the affected utility, as defined in K.S.A. 66-1257, and
2 amendments thereto, and with whom the customer-generator has
3 contracted, with the renewable energy standards act in K.S.A. 66-1256
4 through 66-1262, and amendments thereto.

5 (h) The provisions of the net metering and easy connection act shall
6 not preclude the state corporation commission from approving net
7 metering tariffs upon request of an electric utility for other methods of
8 renewable generation not prescribed in ~~subsection (b)(1)~~ of K.S.A. 66-
9 1264(b)(1), and amendments thereto.

10 Sec. 5. K.S.A. 66-1264 is hereby amended to read as follows: 66-
11 1264. As used in the net metering and easy connection act:

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

13 (b) "Customer-generator" means the owner ~~or~~, operator *or person*
14 *that contracts with an owner or operator pursuant to section 1, and*
15 *amendments thereto*, of a net metered facility ~~which that~~:

16 (1) Is powered by a renewable energy resource;

17 (2) is located on a premises owned, operated, leased or otherwise
18 controlled by the customer-generator;

19 (3) is interconnected and operates in parallel phase and
20 synchronization with an affected utility and is in compliance with the
21 standards established by the affected utility;

22 (4) is intended primarily to offset part or all of the customer-
23 generator's own electrical energy requirements; *and*

24 (5) contains a mechanism, approved by the utility, that automatically
25 disables the unit and interrupts the flow of electricity back onto the
26 supplier's electricity lines in the event that service to the customer-
27 generator is interrupted.

28 (c) "Peak demand" shall have the meaning ascribed thereto in K.S.A.
29 66-1257, and amendments thereto.

30 (d) "Renewable energy resources" shall have the meaning ascribed
31 thereto in K.S.A. 66-1257, and amendments thereto.

32 (e) "Utility" means investor-owned electric utility.

33 Sec. 6. K.S.A. 66-1,170, 66-1,184 and 66-1264 and K.S.A. 2022
34 Supp. 66-104 are hereby repealed.

35 Sec. 7. This act shall take effect and be in force from and after its
36 publication in the statute book.