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

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

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

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

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

(3) "Renewable energy customer" means any person who: (A) Elects to purchase electricity from a renewable energy supplier; and (B) either has an ownership interest in the renewable energy supplier or has part of the integrated generating, storage or controls package of the renewable energy supplier physically located on their premises.

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

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

(b) (1) Any electric customer shall have the option to purchase electricity directly from a renewable energy supplier by: (A) Providing 180 days' notice of such intent to the local certificated utility serving the customer and the commission; and (B) demonstrating the ability and commitment to self-generate at least 50% of the customer's electric needs unless the opportunity to directly purchase firm renewable energy is approved by the commission. The commission may establish any criteria for determining a customer's ability and level of commitment to self-generate.
(2) The commission shall approve appropriate tariffs for the delivery of electricity by a utility from a renewable energy supplier to a renewable energy customer. Such tariffs shall include appropriate retail transmission and distribution charges, any customer charges, standby rates and any ancillary services requested by a customer.

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

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

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

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

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

(5) in addition to the existing customer service and any other charges,
the utility may charge the customer a commission approved provisional
service charge per month as a charge for being available to supply the
customer's electric load on an as-needed basis; and
(6) in any case where the renewable energy customer and the utility
cannot agree to terms and conditions of any contract provided for by this
section, the commission shall establish the terms and conditions for such
contract.
(d) The commission may promulgate any rules and regulations
necessary to effectuate the provisions of this act.
Sec. 2. K.S.A. 2014 Supp. 66-104 is hereby amended to read as
follows: 66-104. (a) The term "public utility," as used in this act, shall be
construed to mean every corporation, company, individual, association of
persons, their trustees, lessees or receivers, that now or hereafter may own,
control, operate or manage, except for private use, any equipment, plant or
generating machinery, or any part thereof, for the transmission of
telephone messages or for the transmission of telegraph messages in or
through any part of the state, or the conveyance of oil and gas through
pipelines in or through any part of the state, except pipelines less than 15
miles in length and not operated in connection with or for the general
commercial supply of gas or oil, and all companies for the production,
transmission, delivery or furnishing of heat, light, water or power. No
cooperative, cooperative society, nonprofit or mutual corporation or
association which is engaged solely in furnishing telephone service to
subscribers from one telephone line without owning or operating its own
separate central office facilities, shall be subject to the jurisdiction and
control of the commission as provided herein, except that it shall not
construct or extend its facilities across or beyond the territorial boundaries
of any telephone company or cooperative without first obtaining approval
of the commission. As used herein, the term "transmission of telephone
messages" shall include the transmission by wire or other means of any
voice, data, signals or facsimile communications, including all such
communications now in existence or as may be developed in the future.
(b) The term "public utility" shall also include that portion of every
municipally owned or operated electric or gas utility located in an area
outside of and more than three miles from the corporate limits of such
municipality, but regulation of the rates, charges and terms and conditions
of service of such utility within such area shall be subject to commission
regulation only as provided in K.S.A. 2014 Supp. 66-104f, and
amendments thereto. Nothing in this act shall apply to a municipally
owned or operated utility, or portion thereof, located within the corporate
limits of such municipality or located outside of such corporate limits but
within three miles thereof except as provided in K.S.A. 66-131a, and
amendments thereto.
(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of K.S.A. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

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

(e) 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 which:

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

(2) is not in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) 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 (C) a municipally owned or operated electric utility.

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

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

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

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

(a) "Distribution line" means an electric line used to furnish retail electric service, including any line from a distribution substation to an
electric consuming facility; but such term does not include a transmission
facility used for the bulk transfer of energy even if such energy is reduced
in voltage and used as station power.
(b) "Electric consuming facility" means any entity which utilizes
electric energy from a central station service.
(c) "Commission" means the state corporation commission of the
state of Kansas.
(d) "Retail electric supplier" means any person, firm, corporation,
municipality, association or cooperative corporation engaged in the
furnishing of retail electric service, but does not include a renewable
energy generator, as defined in section 1, and amendments thereto, for the
generator's association with a renewable energy facility, as defined in
section 1, and amendments thereto.
(e) "Certified territory" means an electric service territory certified to
a retail electric supplier pursuant to this act.
(f) "Existing distribution line" means a distribution line which is in
existence on the effective date of this act, and which is being or has been
used as such.
(g) "Single certified service territory" means that service area in
which only one retail electric supplier has been granted a service
certificate by the commission.
(h) "Dual certified service territory" means that service area where
more than one retail electric supplier has been granted a service certificate
by the commission.
(i) "Station power" means electric energy used for operating
equipment necessary for the process of generating electricity at any
generating plant owned by a utility or a generating plant specified in
subsection (e) of K.S.A. 66-104(e), and amendments thereto, and placed in
use on or after January 1, 2002, whether such electrical energy is generated
at such generating plant or provided through the adjacent transformation
and transmission interconnect, but does not include electric energy used
for heating, lighting, air conditioning and office needs of the buildings at a
generating plant site.
Sec. 4. K.S.A. 66-1,170 and K.S.A. 2014 Supp. 66-104 are hereby
repealed.
Sec. 5. This act shall take effect and be in force from and after its
publication in the statute book.