

**HOUSE BILL No. 2594**

By Representative Sloan

2-2

1 AN ACT concerning utilities; relating to the sale of electricity, renewable  
2 energy suppliers; concerning the state corporation commission;  
3 amending K.S.A. 66-1,170 and K.S.A. 2015 Supp. 66-104 and  
4 repealing the existing sections.

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

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

8 (1) "Ancillary services" means any services that support the  
9 transmission of electric power between the renewable energy supplier and  
10 a utility given the obligations of utilities in impacted certified territories to  
11 maintain reliable operations of the interconnected transmission system.  
12 Such services may include frequency regulation, smoothing of variable  
13 generation, spinning reserves, operating reserves and any other energy  
14 storage services.

15 (2) "Avoided cost" means any cost a utility avoids by purchasing  
16 electricity from a renewable energy supplier.

17 (3) "Commission" means the state corporation commission.

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

26 (5) "Utility" means an electric public utility as defined in K.S.A. 66-  
27 101a, and amendments thereto.

28 (b) (1) The commission shall require utilities to enter into contracts to  
29 purchase electricity directly from renewable energy suppliers located in  
30 the utility's certificated service territory, under the terms and conditions  
31 that the commission finds are just and economically reasonable to the  
32 utility's ratepayers and are nondiscriminatory to renewable energy  
33 suppliers.

34 (2) The commission shall approve appropriate tariffs for the purchase  
35 of electricity by a utility from a renewable energy supplier. Such tariffs  
36 shall include appropriate retail transmission and distribution charges, any

1 customer charges, standby rates, any appropriate ancillary services and the  
2 utility's avoided costs.

3 (3) In determining a utility's avoided costs, the commission may  
4 consider: (A) The cost of the electricity that the utility would have  
5 generated if the utility had not received electricity from a renewable  
6 energy supplier;

7 (B) the cost of the electricity that the utility would have purchased if  
8 the utility had not received electricity from a renewable energy supplier;

9 (C) any variable incremental cost to reduce emissions of sulfur  
10 dioxide, nitrogen dioxide or particulate matter that the utility would have  
11 incurred if the utility had not received electricity from a renewable energy  
12 supplier and that is not included in a cost described in subparagraph (A) or  
13 (B) of this paragraph;

14 (D) the cost of electric capacity that the utility would have incurred if  
15 the utility had not received electricity from a renewable energy supplier;

16 (E) the value provided by a renewable energy supplier for demand  
17 management or load shifting or shedding that enables a utility to avoid the  
18 necessity of adding another peaking unit to the generation in operation to  
19 maintain the system's reliable operation;

20 (F) the value provided by a renewable energy supplier for any micro-  
21 gridding capability that assists the utility in meeting load or demand  
22 management needs;

23 (G) the availability of the electricity from the renewable energy  
24 supplier during times of seasonal or daily peak electricity usage on the  
25 utility's system;

26 (H) any avoided retail transmission or distribution expenses for the  
27 utility;

28 (I) the dispatchability of electricity provided by the renewable energy  
29 supplier; and

30 (J) the reliability of the electricity provided by the renewable energy  
31 supplier.

32 (c) In contracting with the local certificated utility to sell electricity  
33 pursuant to subsection (b), the renewable energy customer shall enter into  
34 a contract with the utility that includes the following terms and conditions:

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

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

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

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

24 (5) in addition to the existing customer service and any other charges,  
25 the utility may charge the supplier a commission approved provisional  
26 service charge per month as a charge for being available to provide the  
27 renewable energy supplier's electric load on an as-needed basis; and

28 (6) in any case where the renewable energy supplier and the utility  
29 cannot agree to terms and conditions of any contract provided for by this  
30 section, the commission shall establish the terms and conditions for such  
31 contract.

32 (d) The commission may promulgate any rules and regulations  
33 necessary to effectuate the provisions of this act.

34 Sec. 2. K.S.A. 2015 Supp. 66-104 is hereby amended to read as  
35 follows: 66-104. (a) The term "public utility," as used in this act, shall be  
36 construed to mean every corporation, company, individual, association of  
37 persons, their trustees, lessees or receivers, that now or hereafter may own,  
38 control, operate or manage, except for private use, any equipment, plant or  
39 generating machinery, or any part thereof, for the transmission of  
40 telephone messages or for the transmission of telegraph messages in or  
41 through any part of the state, or the conveyance of oil and gas through  
42 pipelines in or through any part of the state, except pipelines less than 15  
43 miles in length and not operated in connection with or for the general

1 commercial supply of gas or oil, and all companies for the production,  
2 transmission, delivery or furnishing of heat, light, water or power. No  
3 cooperative, cooperative society, nonprofit or mutual corporation or  
4 association which is engaged solely in furnishing telephone service to  
5 subscribers from one telephone line without owning or operating its own  
6 separate central office facilities, shall be subject to the jurisdiction and  
7 control of the commission as provided herein, except that it shall not  
8 construct or extend its facilities across or beyond the territorial boundaries  
9 of any telephone company or cooperative without first obtaining approval  
10 of the commission. As used herein, the term "transmission of telephone  
11 messages" shall include the transmission by wire or other means of any  
12 voice, data, signals or facsimile communications, including all such  
13 communications now in existence or as may be developed in the future.

14 (b) The term "public utility" shall also include that portion of every  
15 municipally owned or operated electric or gas utility located in an area  
16 outside of and more than three miles from the corporate limits of such  
17 municipality, but regulation of the rates, charges and terms and conditions  
18 of service of such utility within such area shall be subject to commission  
19 regulation only as provided in K.S.A. 2015 Supp. 66-104f, and  
20 amendments thereto. Nothing in this act shall apply to a municipally  
21 owned or operated utility, or portion thereof, located within the corporate  
22 limits of such municipality or located outside of such corporate limits but  
23 within three miles thereof except as provided in K.S.A. 66-131a, and  
24 amendments thereto.

25 (c) Except as herein provided, the power and authority to control and  
26 regulate all public utilities and common carriers situated and operated  
27 wholly or principally within any city or principally operated for the benefit  
28 of such city or its people, shall be vested exclusively in such city, subject  
29 only to the right to apply for relief to the corporation commission as  
30 provided in K.S.A. 66-133, and amendments thereto, and to the provisions  
31 of K.S.A. 66-104e, and amendments thereto. A transit system principally  
32 engaged in rendering local transportation service in and between  
33 contiguous cities in this and another state by means of street railway,  
34 trolley bus and motor bus lines, or any combination thereof, shall be  
35 deemed to be a public utility as that term is used in this act and, as such,  
36 shall be subject to the jurisdiction of the commission.

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

41 (e) At the option of an otherwise jurisdictional entity, the term "public  
42 utility" shall not include any activity or facility of such entity as to the  
43 generation, marketing and sale of electricity generated by an electric

1 generation facility or addition to an electric generation facility which:

2 (1) Is newly constructed and placed in service on or after January 1,  
3 2001; and

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

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

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

17 (h) *The term "public utility" shall not include any renewable energy*  
18 *supplier, as defined in section 1, and amendments thereto, solely for the*  
19 *supplier's sale of electricity pursuant to section 1, and amendments*  
20 *thereto.*

21 Sec. 3. K.S.A. 66-1,170 is hereby amended to read as follows: 66-  
22 1,170. As used in this act:

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

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

30 (c) "Commission" means the state corporation commission of the  
31 state of Kansas.

32 (d) "Retail electric supplier" means any person, firm, corporation,  
33 municipality, association or cooperative corporation engaged in the  
34 furnishing of retail electric service, *but does not include any renewable*  
35 *energy supplier, as defined in section 1, and amendments thereto, solely*  
36 *for the supplier's sale of electricity pursuant to section 1, and amendments*  
37 *thereto.*

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

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

43 (g) "Single certified service territory" means that service area in

1 which only one retail electric supplier has been granted a service  
2 certificate by the commission.

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

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

15 Sec. 4. K.S.A. 66-1,170 and K.S.A. 2015 Supp. 66-104 are hereby  
16 repealed.

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