

**SENATE BILL No. 433**

By Committee on Ways and Means

3-11

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1 AN ACT concerning energy; repealing the renewable energy standards act;  
2 amending K.S.A. 2013 Supp. 66-104d, 66-1,184, 66-1264, 66-1269 and  
3 66-1282 and repealing the existing sections; also repealing K.S.A. 2013  
4 Supp. 66-1256, 66-1257, 66-1258, 66-1259, 66-1260, 66-1261, 66-  
5 1262 and 66-1271.

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

8 Section 1. K.S.A. 2013 Supp. 66-104d is hereby amended to read as  
9 follows: 66-104d. (a) As used in this section, "cooperative" means any  
10 corporation organized under the electric cooperative act, K.S.A. 17-4601  
11 et seq., and amendments thereto, or which becomes subject to the electric  
12 cooperative act in the manner therein provided; or any limited liability  
13 company or corporation providing electric service at wholesale in the state  
14 of Kansas that is owned by four or more electric cooperatives that provide  
15 retail service in the state of Kansas; or any member-owned corporation  
16 formed prior to 2004.

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

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

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

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

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

1 required to mail such additional information, must be paid by the  
2 signatories to the petition.

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

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

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

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

12 (f) Nothing in this section shall be construed to affect the single  
13 certified service territory of a cooperative or the authority of the state  
14 corporation commission, as otherwise provided by law, over a cooperative  
15 with regard to service territory; charges, fees or tariffs for transmission  
16 services; sales of power for resale, other than sales between a cooperative,  
17 as defined in subsection (a), that does not provide retail electric service  
18 and an owner of such cooperative; and wire stringing and transmission line  
19 siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et  
20 seq., and amendments thereto.

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

38 (2) The cooperative's rates, joint rates, tolls, charges and exactions,  
39 classifications or schedules of rates complained of shall remain in effect  
40 subject to change or refund pending the state corporation commission's  
41 investigation and final order.

42 (3) Any customer of a cooperative wishing to petition the  
43 commission pursuant to subsection (g)(1) may request from the

1 cooperative the names, addresses and rate classifications of all the  
2 cooperative's customers or of the cooperative's customers from any one or  
3 more rate classes. The cooperative, within 21 days after receipt of the  
4 request, shall furnish to the customer the requested names, addresses and  
5 rate classifications and may require the customer to pay the reasonable  
6 costs thereof.

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

12 (2) Violations of subsection (h)(1) shall be subject to civil penalties  
13 and enforcement in the same manner as provided by K.S.A. 75-4320 and  
14 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et  
15 seq., and amendments thereto.

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

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

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

27 ~~(k) Notwithstanding any provision of law to the contrary, a~~  
28 ~~cooperative, as defined in subsection (a), shall be subject to the provisions~~  
29 ~~of the renewable energy standards act.~~

30 Sec. 2. K.S.A. 2013 Supp. 66-1,184 is hereby amended to read as  
31 follows: 66-1,184. (a) Except as provided in subsection (b), every public  
32 utility which provides retail electric services in this state shall enter into a  
33 contract for parallel generation service with any person who is a customer  
34 of such utility, upon request of such customer, whereby such customer may  
35 attach or connect to the utility's delivery and metering system an apparatus  
36 or device for the purpose of feeding excess electrical power which is  
37 generated by such customer's energy producing system into the utility's  
38 system. No such apparatus or device shall either cause damage to the  
39 public utility's system or equipment or present an undue hazard to utility  
40 personnel. Every such contract shall include, but need not be limited to,  
41 provisions relating to fair and equitable compensation on such customer's  
42 monthly bill for energy supplied to the utility by such customer.

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

1 (A) "Utility" means an electric public utility, as defined by K.S.A. 66-  
2 101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-  
3 4603, and amendments thereto, or a nonstock member-owned electric  
4 cooperative corporation incorporated in this state, or a municipally owned  
5 or operated electric utility;

6 (B) "school" means Cloud county community college and Dodge City  
7 community college.

8 (2) Every utility which provides retail electric services in this state  
9 shall enter into a contract for parallel generation service with any person  
10 who is a customer of such utility, if such customer is a residential customer  
11 of the utility and owns a renewable generator with a capacity of 25  
12 kilowatts or less, or is a commercial customer of the utility and owns a  
13 renewable generator with a capacity of 200 kilowatts or less or is a school  
14 and owns a renewable generator with a capacity of 1.5 megawatts or less.  
15 Such generator shall be appropriately sized for such customer's anticipated  
16 electric load. A commercial customer who uses the operation of a  
17 renewable generator in connection with irrigation pumps shall not request  
18 more than 10 irrigation pumps connected to renewable generators be  
19 attached or connected to the utility's system. At the customer's delivery  
20 point on the customer's side of the retail meter such customer may attach  
21 or connect to the utility's delivery and metering system an apparatus or  
22 device for the purpose of feeding excess electrical power which is  
23 generated by such customer's energy producing system into the utility's  
24 system. No such apparatus or device shall either cause damage to the  
25 utility's system or equipment or present an undue hazard to utility  
26 personnel. Every such contract shall include, but need not be limited to,  
27 provisions relating to fair and equitable compensation for energy supplied  
28 to the utility by such customer. Such compensation shall be not less than  
29 100% of the utility's monthly system average cost of energy per kilowatt  
30 hour except that in the case of renewable generators with a capacity of 200  
31 kilowatts or less, such compensation shall be not less than 150% of the  
32 utility's monthly system average cost of energy per kilowatt hour. A utility  
33 may credit such compensation to the customer's account or pay such  
34 compensation to the customer at least annually or when the total  
35 compensation due equals \$25 or more.

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

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

42 (1) The utility will supply, own, and maintain all necessary meters  
43 and associated equipment utilized for billing. In addition, and for the

1 purposes of monitoring customer generation and load, the utility may  
2 install at its expense, load research metering. The customer shall supply, at  
3 no expense to the utility, a suitable location for meters and associated  
4 equipment used for billing and for load research;

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

11 (3) the customer shall furnish, install, operate, and maintain in good  
12 order and repair and without cost to the utility, such relays, locks and seals,  
13 breakers, automatic synchronizer, and other control and protective  
14 apparatus as shall be designated by the utility as being required as suitable  
15 for the operation of the generator in parallel with the utility's system. In  
16 any case where the customer and the utility cannot agree to terms and  
17 conditions of any such contract, the state corporation commission shall  
18 establish the terms and conditions for such contract. In addition, the utility  
19 may install, own, and maintain a disconnecting device located near the  
20 electric meter or meters. Interconnection facilities between the customer's  
21 and the utility's equipment shall be accessible at all reasonable times to  
22 utility personnel. Upon notification by the customer of the customer's  
23 intent to construct and install parallel generation, the utility shall provide  
24 the customer a written estimate of all costs that will be incurred by the  
25 utility and billed to the customer to accommodate the interconnection. The  
26 customer may be required to reimburse the utility for any equipment or  
27 facilities required as a result of the installation by the customer of  
28 generation in parallel with the utility's service. The customer shall notify  
29 the utility prior to the initial energizing and start-up testing of the  
30 customer-owned generator, and the utility shall have the right to have a  
31 representative present at such test;

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

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

39 (d) Service under any contract entered into under subsection (a) or (b)  
40 shall be subject to either the utility's rules and regulations on file with the  
41 state corporation commission, which shall include a standard  
42 interconnection process and requirements for such utility's system, or the  
43 current federal energy regulatory commission interconnection procedures

1 and regulations.

2 (e) In any case where the owner of the renewable generator and the  
3 utility cannot agree to terms and conditions of any contract provided for by  
4 this section, the state corporation commission shall establish the terms and  
5 conditions for such contract.

6 (f) The governing body of any school desiring to proceed under this  
7 section shall, prior to taking any action permitted by this section, make a  
8 finding that either: (1) Net energy cost savings will accrue to the school  
9 from such renewable generation over a 20-year period; or (2) that such  
10 renewable generation is a science project being conducted for educational  
11 purposes and that such project may not recoup the expenses of the project  
12 through energy cost savings. Any school proceeding under this section  
13 may contract or enter into a finance, pledge, loan or lease-purchase  
14 agreement with the Kansas development finance authority as a means of  
15 financing the cost of such renewable generation.

16 ~~(g) For the purpose of meeting the requirements of K.S.A. 2013-~~  
17 ~~Supp. 66-1258, and amendments thereto, the parallel generation of~~  
18 ~~electricity provided for in this section shall be included as part of the~~  
19 ~~state's renewable energy generation.~~

20 ~~(h)~~ The provisions of the net metering and easy connection act shall  
21 not preclude the state corporation commission from approving net  
22 metering tariffs upon request of an electric utility for other methods of  
23 renewable generation not prescribed in subsection (b)(1) of K.S.A. 2013  
24 Supp. 66-1264, and amendments thereto.

25 Sec. 3. K.S.A. 2013 Supp. 66-1264 is hereby amended to read as  
26 follows: 66-1264. As used in the net metering and easy connection act:

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

28 (b) "Customer-generator" means the owner or operator of a net  
29 metered facility which:

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

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

33 (3) is interconnected and operates in parallel phase and  
34 synchronization with an affected utility and is in compliance with the  
35 standards established by the affected utility;

36 (4) is intended primarily to offset part or all of the customer-  
37 generator's own electrical energy requirements;

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

42 (c) ~~"Peak demand" shall have the meaning ascribed thereto in K.S.A.~~  
43 ~~2013 Supp. 66-1257, and amendments thereto means the demand imposed~~

1 *by the affected utility's retail load in the state.*

2 (d) "Renewable energy resources" ~~shall have the meaning ascribed~~  
3 ~~thereto in K.S.A. 2013 Supp. 66-1257, and amendments thereto~~ means net  
4 *renewable generation capacity from:*

5 (1) *Wind;*

6 (2) *solar thermal resources;*

7 (3) *photovoltaic cells and panels;*

8 (4) *dedicated crops grown for energy production;*

9 (5) *cellulosic agricultural residues;*

10 (6) *plant residues;*

11 (7) *methane from landfills or wastewater treatment;*

12 (8) *clean and untreated wood products, such as pallets;*

13 (9)(A) *existing hydropower;*

14 (B) *new hydropower;*

15 (10) *fuel cells using hydrogen produced by one of the above-named*  
16 *renewable energy resources;*

17 (11) *energy storage that is connected to any renewable generation by*  
18 *means of energy storage equipment, including, but not limited to,*  
19 *batteries, fly wheels, compressed air storage and pumped hydro; or*

20 (12) *other sources of energy, not including nuclear power, that*  
21 *became available after the effective date of this section, and that are*  
22 *certified as renewable by rules and regulations established by the*  
23 *commission pursuant to K.S.A. 66-1269, and amendments thereto.*

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

25 Sec. 4. K.S.A. 2013 Supp. 66-1269 is hereby amended to read as  
26 follows: 66-1269. (a) The commission shall, within 12 months from the  
27 effective date of the net metering and easy connection act, establish rules  
28 and regulations necessary for the administration of the act, which shall  
29 include rules and regulations ensuring that simple contracts are used for  
30 interconnection and net metering. For systems less than 25 kilowatts, the  
31 application process shall use an all-in-one document that includes a simple  
32 interconnection request, simple procedures and a brief set of terms and  
33 conditions.

34 (b) *The commission shall establish rules and regulations for the*  
35 *administration of a certification process for use of renewable energy*  
36 *resources. Criteria for the certification process shall be determined by*  
37 *factors that include, but are not limited to: Fuel type, technology and*  
38 *environmental impacts of renewable energy resources described in*  
39 *subsection (d)(11) of K.S.A. 2013 Supp. 66-1264, and amendments thereto.*  
40 *Use of renewable energy resources described in subsection (d)(11) of*  
41 *K.S.A. 2013 Supp. 66-1264, and amendments thereto, shall not cause*  
42 *undue or adverse air, water or land use impacts.*

43 Sec. 5. K.S.A. 2013 Supp. 66-1282 is hereby amended to read as

1 follows: 66-1282. On or before February 1, 2013, and every two years  
2 thereafter, the state corporation commission shall compile a report  
3 regarding electric supply and demand for all electric utilities in Kansas.  
4 The report shall include, but not be limited to, generation capacity needs,  
5 *and* system peak capacity needs ~~and renewable generation needs~~  
6 ~~associated with the 2009 Kansas renewable energy standards~~. The  
7 commission shall submit the report to the house energy and utilities  
8 committee and the senate utilities committee.

9 Sec. 6. K.S.A. 2013 Supp. 66-104d, 66-1,184, 66-1256, 66-1257, 66-  
10 1258, 66-1259, 66-1260, 66-1261, 66-1262, 66-1264, 66-1269, 66-1271  
11 and 66-1282 are hereby repealed.

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