

SENATE BILL No. 82

By Committee on Utilities

1-28

1 AN ACT concerning energy; relating to renewable energy portfolio
2 standards; amending K.S.A. 2012 Supp. 66-1258{, **66-1260 and 66-**
3 **1261}** and repealing the existing section *{sections}*.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 66-1258 is hereby amended to read as
7 follows: 66-1258. (a) The commission shall establish by rules and
8 regulations a portfolio requirement for all affected utilities to generate or
9 purchase electricity generated from renewable energy resources or
10 purchase renewable energy credits. For the purposes of calculating the
11 capacity from renewable energy credit purchases, the affected utility shall
12 use its actual capacity factor from its owned renewable generation from
13 the immediately previous calendar year. Renewable energy credits may
14 only be used to meet a portion of portfolio requirements for the years
15 2011, ~~2016 and 2020~~ *2018 and 2024*, unless otherwise allowed by the
16 commission. Such portfolio requirement shall provide net renewable
17 generation capacity that shall constitute the following portion of each
18 affected utility's peak demand:

19 (1) Not less than 10% of the affected utility's peak demand for
20 calendar years 2011 through ~~2015~~ *2017*, based on the average demand of
21 the prior three years of each year's requirement;

22 (2) not less than 15% of the affected utility's peak demand for
23 calendar years ~~2016 through 2019~~ *2018 through 2023*, based on the
24 average demand of the prior three years of each year's requirements. *The*
25 *commission may delay the 15% portfolio requirement for an affected*
26 *utility for a specified period of time upon a showing of good cause. Good*
27 *cause includes, but is not limited to, availability of firm transmission*
28 *service or excessive costs to retail electric customers; and*

29 (3) not less than 20% of the affected utility's peak demand for each
30 calendar year beginning in ~~2020~~ *2024*, based on the average demand of the
31 prior three years of each year's requirement. *The commission may waive or*
32 *delay the 20% portfolio requirement for an affected utility for a specified*
33 *period of time upon a showing of good cause. Good cause includes, but is*
34 *not limited to, availability of firm transmission service or excessive costs*
35 *to retail electric customers.*

36 (b) The portfolio requirements described in subsection (a) shall apply

1 to all power sold to Kansas retail consumers whether such power is self-
2 generated or purchased from another source in or outside of the state. The
3 capacity of all net metering systems interconnected with the affected
4 utilities under the net metering and easy connection act in K.S.A. 2012
5 Supp. 66-1263 et seq., and amendments thereto, shall count toward
6 compliance.

7 (c) Each megawatt of eligible capacity in Kansas installed after
8 January 1, 2000, shall count as 1.10 megawatts for purposes of
9 compliance.

10 (d) *As used in this section;{ (1) "Excessive costs to retail electric*
11 *customers" means any investment in a renewable energy resource that*
12 *results in a retail rate impact, as determined by the commission pursuant*
13 *to K.S.A. 2012 Supp. 66-1260, and amendments thereto, that is greater*
14 *than one percent more than a prudent investment in a nonrenewable*
15 *energy resource needed to meet the utility's current demand; and*

16 *(2)} "firm transmission service" means ~~either firm point-to-point~~*
17 *transmission service or firm network transmission service as defined in the*
18 *southwest power pool open access transmission tariff or other applicable*
19 *transmission tariff as approved by the federal energy regulatory*
20 *commission {the highest quality transmission service offered to*
21 *customers under a filed rate schedule that anticipates no planned*
22 *interruption. "Firm transmission service" does not mean transmission*
23 *service that is reserved on an as-available basis and is subject to*
24 *curtailment or interruption}.*

25 (e) The commission shall establish rules and regulations required in
26 this section within 12 months of the effective date of this act.

27 *{(f) (1) The commission shall open any dockets necessary to*
28 *determine the availability of firm transmission service and the projected*
29 *retail rate impact for affected utilities to satisfy the portfolio*
30 *requirement. The commission shall make such a determination: (A) For*
31 *the portfolio requirement described in subsection (a)(2),} *by January 1,*
32 *2016; and**

33 *(B) for the portfolio requirement described in subsection (a)(3), by*
34 *January 1, 2020.*

35 *(2) As part of such study, the commission shall examine: (A)*
36 *Electric rates in nearby states;*

37 *(B) the projected availability of federal production tax credits, or*
38 *other comparable incentives for the generation of renewable energy*
39 *resources, and the impact such credits could have on retail rates;*

40 *(C) the impact any federal laws, rules or regulations, including*
41 *potential requirements such as a federal renewable portfolio standard or*
42 *other regulations, could have on retail electric rates; and*

43 *(D) any federal requirements that impact the costs of the*

1 *construction, maintenance or operation of nonrenewable energy*
2 *resources.*

3 *(3) The commission shall report any findings of such dockets to the*
4 *senate committee on utilities, the house committee on energy and*
5 *environment and the house committee on utilities and*
6 *telecommunications.*

7 *Sec. 2. K.S.A. 2012 Supp. 66-1260 is hereby amended to read as*
8 *follows: 66-1260. (a) (1) For each affected utility, the commission shall*
9 *determine whether investment in renewable energy resources required to*
10 *meet the renewable portfolio requirement, as required by K.S.A. 2012*
11 *Supp. 66-1258, and amendments thereto, is a prudent expenditure and*
12 *causes the affected utility's total revenue requirement to increase less*
13 *than one percent or greater more than a prudent investment in a*
14 *nonrenewable energy resource needed to meet the utility's current demand.*

15 *(2) The commission shall annually determine the annual statewide*
16 *retail rate impact resulting from affected utilities meeting the renewable*
17 *portfolio requirement. In determining the retail rate impact for an*
18 *affected utility, the factors for the commission to examine shall include,*
19 *but not be limited to, the costs incurred by Kansas retail customers for:*
20 *(A) The construction, generation or acquisition of electricity generated*
21 *from renewable energy resources or the purchase of renewable energy*
22 *credits;*

23 *(B) the costs of construction, operation and maintenance of any*
24 *generation used to support a renewable energy resource; and*

25 *(C) any transmission lines needed to move electricity from renewable*
26 *energy resources to retail customers and the transmission line losses*
27 *incurred on such transmission lines.*

28 *(b) Submission of information pertaining to an affected utility's*
29 *portfolio requirement shall be determined by rules and regulations*
30 *promulgated by the commission or by order of the commission.*

31 *(c) Beginning in 2013, on or before March 1 of each year, the*
32 *commission shall submit a report of the annual statewide retail rate*
33 *impact for the previous year to the governor, the senate committee on*
34 *utilities and, the house committee on energy and utilities environment*
35 *and the house committee on utilities and telecommunications.*

36 *Sec. 3. K.S.A. 2012 Supp. 66-1261 is hereby amended to read as*
37 *follows: 66-1261. (a) The commission shall establish rules and*
38 *regulations for the administration of the renewable energy standards*
39 *act, including reporting and enforcement mechanisms necessary to*
40 *ensure that each affected utility complies with this standard and other*
41 *provisions governing the imposition of administrative penalties assessed*
42 *after a hearing held by the commission. Administrative penalties should*
43 *be set at a level that will promote compliance with the renewable energy*

1 *standards act, and shall not be limited to penalties set forth in K.S.A 66-*
2 *138 and 66-177, and amendments thereto.*

3 *(b) For the calendar years 2011 and 2012, the commission is not*
4 *required to assess penalties if the affected utility can demonstrate it*
5 *made a good faith effort to comply with the portfolio standards*
6 *requirement. The commission shall exempt an affected utility from*
7 *administrative penalties for an individual compliance year if the utility*
8 *demonstrates that the retail rate impact described in K.S.A. 2012 Supp.*
9 *66-1260, and amendments thereto, has been reached or exceeded, or if*
10 *the costs such utility would have incurred in complying with the portfolio*
11 *requirement for that year were deemed by the commission to not be*
12 *prudent and the utility has not achieved full compliance with K.S.A.*
13 *2012 Supp. 66-1258, and amendments thereto. In imposing penalties,*
14 *the commission shall have discretion to consider mitigating*
15 *circumstances. Under no circumstances shall the costs of administrative*
16 *penalties be recovered from Kansas retail customers.*

17 *(c) The commission shall establish rules and regulations required*
18 *in this section within 12 months of the effective date of this act.*

19 ~~Sec. 2. {4.}~~ K.S.A. 2012 Supp. 66-1258 ~~is~~{, 66-1260 and 66-1261
20 ~~are~~} hereby repealed.

21 ~~Sec. 3. {5.}~~ This act shall take effect and be in force from and after its
22 publication in the statute book.