

## HOUSE BILL No. 2043

By Committee on Energy and Utilities

1-21

---

9 AN ACT concerning utilities; establishing the net metering and easy con-  
10 nection act for wind generation; amending K.S.A. 2008 Supp. 66-1,184  
11 and repealing the existing section.  
12

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

14 New Section 1. Sections 1 through 17, and amendments thereto,  
15 shall be known and may be cited as the net metering and easy connection  
16 act for wind generation.

17 New Sec. 2. As used in the net metering and easy connection act for  
18 wind generation:

19 (a) "Avoided energy cost" means the current average cost of fuel and  
20 purchased energy for the preceding 12 months for the utility, or in the  
21 case of a non-generating utility, for such utility's wholesale power sup-  
22 plier, as defined by the governing body with jurisdiction over any electric  
23 municipal utility, electric cooperative utility or electric public utility.

24 (b) "Commission" means the state corporation commission.

25 (c) "Customer-generator" means the owner or operator of a qualified  
26 electric energy generation unit which:

27 (1) Is powered by wind;

28 (2) has an electrical generating system with a capacity of not more  
29 than 100 kilowatts;

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

32 (4) is interconnected and operates in parallel phase and synchroni-  
33 zation with a retail electric supplier and has been approved by such retail  
34 electric supplier;

35 (5) is intended primarily to offset part or all of the customer-gener-  
36 ator's own electrical energy requirements;

37 (6) meets all applicable safety, performance, interconnection and re-  
38 liability standards established by the national electrical code, the national  
39 electrical safety code, the institute of electrical and electronics engineers,  
40 underwriters laboratories, the federal energy regulatory commission and  
41 any local governing authorities; and

42 (7) contains a mechanism accessible by electric utility personnel that  
43 automatically disables the unit and interrupts the flow of electricity back

1 onto the supplier's electricity lines in the event that service to the cus-  
2 tomer-generator is interrupted.

3 (d) "Net metering" means using metering equipment sufficient to  
4 measure the difference between the electrical energy supplied to a cus-  
5 tomer-generator by a retail electric supplier and the electrical energy  
6 supplied by the customer-generator to the retail electric supplier over the  
7 applicable billing period.

8 (e) "Retail electric supplier" means any electric municipal utility,  
9 electric cooperative utility or electric public utility which provides retail  
10 electric service in this state.

11 New Sec. 3. A retail electric supplier shall:

12 (a) Make net metering available to customer-generators on a first-  
13 come, first-served basis, subject to the following: (1) A supplier shall not  
14 be required to make net metering available in a calendar year if total  
15 rated generating capacity of all applications for interconnection already  
16 approved by the supplier in the calendar year equals or exceeds 1% of  
17 the supplier's single-hour peak load for the previous calendar year; and  
18 (2) a supplier shall not be required to make net metering available to a  
19 customer-generator if the total rated generating capacity of net metering  
20 systems equals: (A) 5% of the supplier's Kansas single-hour peak load  
21 during the previous year; or (B) such higher percentage as specified by  
22 the commission, for a public utility, or the governing body, for any other  
23 utility, once the total rated generating capacity of net metering systems  
24 has reached 5% of the supplier's single-hour peak load during the pre-  
25 vious year;

26 (b) offer to the customer-generator a tariff or contract that is identical  
27 in electrical energy rates, rate structure and monthly charges to the con-  
28 tract or tariff that the customer would be assigned if the customer were  
29 not an eligible customer-generator but shall not charge the customer-  
30 generator any additional standby, capacity, interconnection or other fee  
31 or charge that would not otherwise be charged if the customer were not  
32 an eligible customer-generator; and

33 (c) disclose annually the availability of the net metering program to  
34 each of its customers with the method and manner of disclosure being at  
35 the discretion of the supplier.

36 New Sec. 4. A customer-generator's facility shall be equipped with  
37 sufficient metering equipment that can measure the net amount of elec-  
38 trical energy produced or consumed by the customer-generator. If the  
39 customer-generator's existing meter equipment does not meet these  
40 requirements or if it is necessary for the electric supplier to install addi-  
41 tional distribution equipment to accommodate the customer-generator's  
42 facility, the customer-generator shall reimburse the retail electric supplier  
43 for the costs to purchase and install the necessary additional equipment.

1 At the request of the customer-generator, such costs may be initially paid  
2 for by the retail electric supplier and any amount equal to not more than  
3 the total costs plus a reasonable interest charge may be recovered from  
4 the customer-generator over the course of not more than 12 billing cycles.  
5 Any subsequent meter testing, maintenance or meter equipment change  
6 necessitated by the customer-generator shall be paid for by the customer-  
7 generator.

8 New Sec. 5. The utility will supply, own and maintain all necessary  
9 meters and associated equipment utilized for billing. In addition, and for  
10 the purposes of monitoring customer generation and load, the utility may  
11 install at its expense, load research metering. The customer shall supply,  
12 at no expense to the utility, a suitable location for meters and associated  
13 equipment used for billing and for load research.

14 New Sec. 6. Consistent with the provisions of the net metering and  
15 easy connection act for wind generation, the net electrical energy meas-  
16 urement shall be calculated in the following manner:

17 (a) For a customer-generator, a retail electric supplier shall measure  
18 the net electrical energy produced or consumed during the billing period  
19 in accordance with normal metering practices for customers in the same  
20 rate class, by employing a single, bidirectional meter that measures the  
21 amount of electrical energy produced and consumed, by employing mul-  
22 tiple meters that separately measure the customer-generator's consump-  
23 tion and production of electricity or by employing an alternative  
24 technology.

25 (b) If the electricity supplied by the supplier exceeds the electricity  
26 generated by the customer-generator during a billing period, the cus-  
27 tomer-generator shall be billed for the net electricity supplied by the  
28 supplier in accordance with normal practices for customers in the same  
29 rate class.

30 (c) If the electricity generated by the customer-generator exceeds the  
31 electricity supplied by the supplier during a billing period, the customer-  
32 generator shall be billed for the appropriate customer charges for that  
33 billing period in accordance with section 3, and amendments thereto, and  
34 shall be credited an amount at least equal to 150% of the avoided energy  
35 cost for the excess kilowatt-hours generated during the billing period,  
36 with this credit applied to the following billing period.

37 (d) Any credits granted pursuant to this section shall expire without  
38 any compensation at the earlier of either 12 months after their issuance  
39 or when the customer-generator disconnects service or terminates the  
40 net metering relationship with the supplier.

41 (e) For any electric cooperative utility or electric municipal utility,  
42 upon agreement of the wholesale generator supplying electric energy to  
43 the retail electric supplier, at the option of the retail electric supplier, the

1 credit to the customer-generator may be provided by the wholesale  
2 generator.

3 New Sec. 7. (a) Each qualified electric energy generation unit used  
4 by a customer-generator shall meet all applicable safety, performance,  
5 interconnection and reliability standards established by any local code  
6 authorities, the national electrical code, the national electrical safety code,  
7 the institute of electrical and electronics engineers and underwriters lab-  
8 oratories for distributed generation. No supplier shall impose any fee,  
9 charge or other requirement not specifically authorized by the net me-  
10 tering and easy connection act for wind generation or the rules and reg-  
11 ulations promulgated under such act unless the fee, charge or other re-  
12 quirement would apply to similarly situated customers who are not  
13 customer-generators, except that a retail electric supplier may require  
14 that a customer-generator's system contain a switch, circuit breaker, fuse  
15 or other easily accessible device or feature located in immediate proximity  
16 to the customer-generator's metering equipment that would allow a utility  
17 worker the ability to manually and instantly disconnect the unit from the  
18 utility's electric distribution system.

19 (b) For systems of 10 kilowatts or less, a customer-generator whose  
20 system meets the standards specified by subsection (a) shall not be re-  
21 quired to install additional controls, perform or pay for additional tests or  
22 distribution equipment or purchase additional liability insurance beyond  
23 what is required under subsection (a) and section 4, and amendments  
24 thereto.

25 (c) For customer-generator systems of greater than 10 kilowatts, the  
26 commission for public utilities and the governing body for other utilities,  
27 by rule or equivalent formal action by each respective governing body,  
28 shall:

29 (1) Set forth safety, performance and reliability standards and  
30 requirements; and

31 (2) establish the qualifications for exemption from a requirement to  
32 install additional controls, perform or pay for additional tests or distri-  
33 bution equipment or purchase additional liability insurance.

34 New Sec. 8. (a) Applications by a customer-generator for intercon-  
35 necting of the qualified generation unit to the distribution system shall  
36 be accompanied by the plan for the customer-generator's electrical gen-  
37 erating system, including, but not limited to, a wiring diagram and spec-  
38 ifications for the generating unit, and shall be reviewed and responded  
39 to by the retail electric supplier within 30 days after receipt for systems  
40 of 10 kilowatts or less and within 90 days after receipt for all other systems.  
41 Prior to the interconnection of the qualified generation unit to the sup-  
42 plier's system, the customer-generator will furnish the retail electric sup-  
43 plier a certification from a qualified professional electrician or engineer

1 that the installation meets the requirements of subsection (a) of section  
2 7, and amendments thereto. If the application for interconnection is ap-  
3 proved by the retail electric supplier and the customer-generator does  
4 not complete the interconnection within one year after receipt of notice  
5 of the approval, the approval shall expire and the customer-generator shall  
6 be responsible for filing a new application.

7 (b) Upon the change in ownership of a qualified electric energy gen-  
8 eration unit, the new customer-generator shall be responsible for filing a  
9 new application under this section.

10 New Sec. 9. Each retail electric supplier regulated by the commis-  
11 sion shall submit an annual net metering report to the commission and  
12 each other retail electric supplier shall submit the same report to its re-  
13 spective governing body. For data collection purposes only, non-regulated  
14 electric suppliers shall submit the same report to the commission. The  
15 report shall include the following information for the previous calendar  
16 year: The total number of customer-generator facilities, the total esti-  
17 mated generating capacity of its net-metered customer-generators and  
18 the total estimated net kilowatt-hours received from customer-generators.  
19 The supplier shall make such report available to any consumer of the  
20 supplier upon request.

21 New Sec. 10. Within nine months after the effective date of the net  
22 metering and easy connection act for wind generation, the commission  
23 shall adopt rules and regulations necessary for the administration of such  
24 act for electric public utilities, which shall include rules and regulations  
25 ensuring that simple contracts will be used for interconnection and net  
26 metering. For systems of 10 kilowatts or less, the application process shall  
27 use an all-in-one document that includes a simple interconnection re-  
28 quest, simple procedures and a brief set of terms and conditions.

29 New Sec. 11. Within nine months after the effective date of the net  
30 metering and easy connection act for wind generation, the governing body  
31 of an electric cooperative utility or electric municipal utility shall adopt  
32 policies establishing a simple contract to be used for interconnection and  
33 net metering. For systems of 10 kilowatts or less, the application process  
34 shall use an all-in-one document that includes a simple interconnection  
35 request, simple procedures and a brief set of terms and conditions.

36 New Sec. 12. For any cause of action relating to any damages to  
37 property or person caused by the generation unit of a customer-generator  
38 or the interconnection thereof, the retail electric supplier shall have no  
39 liability absent clear and convincing evidence of fault on the part of the  
40 supplier.

41 New Sec. 13. The estimated generating capacity of all net metering  
42 systems operating under the provisions of the net metering and easy con-  
43 nection act for wind generation shall count towards accomplishment by

1 the respective retail electric supplier, or the wholesale generator supply-  
2 ing electric energy to the retail electric supplier, of any renewable energy  
3 portfolio target or mandate adopted by the Kansas legislature.

4 New Sec. 14. Any costs incurred under the net metering and easy  
5 connection act for wind generation by a retail electric supplier shall be  
6 recoverable in the utility's rate structure.

7 New Sec. 15. No consumer shall connect or operate an electric gen-  
8 eration unit in parallel phase and synchronization with any retail electric  
9 supplier without written approval by such supplier that all of the require-  
10 ments under subsection (a) of section 8, and amendments thereto, have  
11 been met. For a consumer who violates this provision, a supplier may  
12 immediately and without notice disconnect the electric facilities of such  
13 consumer and terminate such consumer's electric service.

14 New Sec. 16. The manufacturer of any electric generation unit used  
15 by a customer-generator may be held liable for any damages to property  
16 or person caused by a defect in the electric generation unit of a customer-  
17 generator.

18 New Sec. 17. The seller, installer or manufacturer of any electric  
19 generation unit who knowingly misrepresents the safety aspects of an  
20 electric generation unit may be held liable for any damages to property  
21 or person caused by the electric generation unit of a customer-generator.

22 New Sec. 18. (a) On and after the effective date of this act, any pro-  
23 vision of a restrictive covenant which restricts or prohibits the use of any  
24 wind turbine or any other equipment used for wind power on or adjacent  
25 to any residential dwelling is hereby declared to be against public policy  
26 and such provision shall be void and unenforceable.

27 (b) The provisions of this section shall apply to any restrictive cove-  
28 nant in existence on the effective date of this act.

29 New Sec. 19. (a) On and after the effective date of this act, any pro-  
30 vision of a city or county ordinance, resolution or regulation restricting  
31 or prohibiting the use of any wind turbine or any other equipment used  
32 for wind power installed on or adjacent to buildings is hereby declared  
33 to be against public policy and such provision shall be void and  
34 unenforceable.

35 (b) The provisions of this section shall apply to any ordinance, reso-  
36 lution or regulation in existence on the effective date of this act.

37 Sec. 20. K.S.A. 2008 Supp. 66-1,184 is hereby amended to read as  
38 follows: 66-1,184. (a) Except as provided in subsection (b), every public  
39 utility which provides retail electric services in this state shall enter into  
40 a contract for parallel generation service with any person who is a cus-  
41 tomer of such utility, upon request of such customer, whereby such cus-  
42 tomer may attach or connect to the utility's delivery and metering system  
43 an apparatus or device for the purpose of feeding excess electrical power

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

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

9 (A) "Utility" means an electric public utility, as defined by K.S.A. 66-  
10 101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-  
11 4603, and amendments thereto, or a nonstock member-owned electric  
12 cooperative corporation incorporated in this state, or a municipally owned  
13 or operated electric utility;

14 (B) "school" means Cloud county community college and Dodge City  
15 community college; and

16 (C) "*avoided energy cost*" means the current average cost of fuel and  
17 purchased energy for the preceding 12 months for the utility, or in the  
18 case of a non-generating utility, for such utility's wholesale power sup-  
19 plier, as defined by the governing body with jurisdiction over any electric  
20 municipal utility, electric cooperative utility or electric public utility.

21 (2) Every utility which provides retail electric services in this state  
22 shall enter into a contract for parallel generation service with any person  
23 who is a customer of such utility, if such customer is a residential customer  
24 of the utility and owns a renewable generator with a capacity of 25 kilo-  
25 watts or less, or is a commercial customer of the utility and owns a re-  
26 newable generator with a capacity of 200 kilowatts or less or is a school  
27 and owns a renewable generator with a capacity of 1.5 megawatts or less.  
28 Such generator shall be appropriately sized for such customer's antici-  
29 pated electric load. A commercial customer who uses the operation of a  
30 renewable generator in connection with irrigation pumps shall not request  
31 more than 10 irrigation pumps connected to renewable generators be  
32 attached or connected to the utility's system. At the customer's delivery  
33 point on the customer's side of the retail meter such customer may attach  
34 or connect to the utility's delivery and metering system an apparatus or  
35 device for the purpose of feeding excess electrical power which is gen-  
36 erated by such customer's energy producing system into the utility's sys-  
37 tem. No such apparatus or device shall either cause damage to the utility's  
38 system or equipment or present an undue hazard to utility personnel.  
39 Every such contract shall include, but need not be limited to, provisions  
40 relating to fair and equitable compensation for energy supplied to the  
41 utility by such customer. Such compensation shall be not less than 100%  
42 of the ~~utility's monthly system average cost of energy per kilowatt hour~~  
43 *avoided energy cost* except that in the case of renewable generators with

1 a capacity of 200 kilowatts or less, such compensation shall be not less  
2 than 150% of the ~~utility's monthly system average cost of energy per~~  
3 ~~kilowatt-hour~~ *avoided energy cost*. A utility may credit such compensation  
4 to the customer's account or pay such compensation to the customer at  
5 least annually or when the total compensation due equals \$25 or more.

6 (3) *A customer-generator, as defined by section 2, and amendments*  
7 *thereto, shall have the option of entering into a contract pursuant to this*  
8 *subsection (b) or utilizing the net metering and easy connection act for*  
9 *wind generation. The customer-generator shall exercise the option in writ-*  
10 *ing, filed with the utility and shall not be entitled to change the option*  
11 *once it is filed.*

12 (c) The following terms and conditions shall apply to contracts en-  
13 tered into under subsection (a) or (b):

14 (1) The utility will supply, own, and maintain all necessary meters  
15 and associated equipment utilized for billing. In addition, and for the  
16 purposes of monitoring customer generation and load, the utility may  
17 install at its expense, load research metering. The customer shall supply,  
18 at no expense to the utility, a suitable location for meters and associated  
19 equipment used for billing and for load research;

20 (2) for the purposes of insuring the safety and quality of utility system  
21 power, the utility shall have the right to require the customer, at certain  
22 times and as electrical operating conditions warrant, to limit the produc-  
23 tion of electrical energy from the generating facility to an amount no  
24 greater than the load at the customer's facility of which the generating  
25 facility is a part;

26 (3) the customer shall furnish, install, operate, and maintain in good  
27 order and repair and without cost to the utility, such relays, locks and  
28 seals, breakers, automatic synchronizer, and other control and protective  
29 apparatus as shall be designated by the utility as being required as suitable  
30 for the operation of the generator in parallel with the utility's system. In  
31 any case where the customer and the utility cannot agree to terms and  
32 conditions of any such contract, the state corporation commission shall  
33 establish the terms and conditions for such contract. In addition, the  
34 utility may install, own, and maintain a disconnecting device located near  
35 the electric meter or meters. Interconnection facilities between the cus-  
36 tomer's and the utility's equipment shall be accessible at all reasonable  
37 times to utility personnel. Upon notification by the customer of the cus-  
38 tomer's intent to construct and install parallel generation, the utility shall  
39 provide the customer a written estimate of all costs that will be incurred  
40 by the utility and billed to the customer to accommodate the intercon-  
41 nection. The customer may be required to reimburse the utility for any  
42 equipment or facilities required as a result of the installation by the cus-  
43 tomer of generation in parallel with the utility's service. The customer



1 shall notify the utility prior to the initial energizing and start-up testing  
2 of the customer-owned generator, and the utility shall have the right to  
3 have a representative present at such test;

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

6 (5) the utility may limit the number and size of renewable generators  
7 to be connected to the utility's system due to the capacity of the distri-  
8 bution line to which such renewable generator would be connected, and  
9 in no case shall the utility be obligated to purchase an amount greater  
10 than 4% of such utility's peak power requirements.

11 (d) Service under any contract entered into under subsection (a) or  
12 (b) shall be subject to either the utility's rules and regulations on file with  
13 the state corporation commission, which shall include a standard inter-  
14 connection process and requirements for such utility's system, or the cur-  
15 rent federal energy regulatory commission interconnection procedures  
16 and regulations.

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

21 (f) The governing body of any school desiring to proceed under this  
22 section shall, prior to taking any action permitted by this section, make a  
23 finding that either: (1) Net energy cost savings will accrue to the school  
24 from such renewable generation over a 20-year period; or (2) that such  
25 renewable generation is a science project being conducted for educational  
26 purposes and that such project may not recoup the expenses of the project  
27 through energy cost savings. Any school proceeding under this section  
28 may contract or enter into a finance, pledge, loan or lease-purchase agree-  
29 ment with the Kansas development finance authority as a means of fi-  
30 nancing the cost of such renewable generation.

31 (g) For the purpose of meeting ~~the governor's stated goal of produc-~~  
32 ~~ing 10% of the state's electricity by wind power by 2010 and 20% by 2020,~~  
33 ~~any renewable energy portfolio target or mandate adopted by the Kansas~~  
34 ~~legislature,~~ the parallel generation of electricity provided for in this sec-  
35 tion shall be included as part of the state's *renewable* energy generation  
36 ~~by wind power.~~

37 (h) *The provisions of the net metering and easy connection act for*  
38 *wind generation shall not preclude the state corporation commission from*  
39 *approving net metering tariffs upon request of an electric utility for other*  
40 *methods of renewable generation not prescribed in subsection (c)(1) of*  
41 *section 2, and amendments thereto.*

42 Sec. 21. K.S.A. 2008 Supp. 66-1,184 is hereby repealed.

43

1     Sec. 22. This act shall take effect and be in force from and after its  
2     publication in the statute book.