

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **Senate Substitute for HB 2014**, on page 1, following line 7, by inserting:

"New Section 1. (a) As used in this section: (1) "Renewable energy facility" means a facility located on a premises owned, operated, leased or otherwise controlled by a tax exempt entity that is powered by a renewable energy resource, as defined in K.S.A. 66-1264, and amendments thereto, and is intended primarily to offset part of the tax exempt entity's own electrical energy requirements.

(2) "Renewable energy generator" means any corporation, company, individual, association of persons, their trustees, lessees or receivers that installs, finances, owns or operates a renewable energy facility.

(3) "Tax exempt entity" means a governmental entity as defined in K.S.A. 75-6102, and amendments thereto, a federal entity as defined in K.S.A. 74-8902, and amendments thereto, church or other religious societies, benevolent or charitable organizations and associations, social service agencies, civic or community organizations and associations and corporations or other entities organized for the purpose of providing humanitarian services.

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

(b) (1) Any tax exempt entity shall have the option to purchase electricity generated by a renewable energy facility from a renewable energy generator. A renewable energy facility shall not exceed 100% of the tax exempt entity's baseline annual usage over the past three years, or anticipated load if new construction has been completed within the past three years.

(2) A tax exempt entity shall provide the utility serving such entity with notice of the intent to

install a renewable energy facility at least 90 days prior to initially energizing the facility. Upon notification by the tax exempt entity of the intent to construct a renewable energy facility, the utility shall provide the tax exempt entity a written estimate of all costs that will be incurred by the utility and billed to the entity to accommodate the interconnection. The tax exempt entity may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the tax exempt entity of the renewable energy facility. The tax exempt entity shall notify the utility prior to the initial energizing and start-up testing of the renewable energy facility, and the utility shall have the right to have a representative present at such test.

(3) Any renewable energy credits created as a result of construction of renewable energy facilities pursuant to this section shall be transferred and assigned to the utility serving the tax exempt entity.

(c) In exercising the purchase option in subsection (b), the tax exempt entity shall enter into a contract with the utility that includes the following terms and conditions:

(1) The utility will supply, own and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring the generation and load of the tax exempt entity, the utility may install at its expense, load research metering. The tax exempt entity or renewable energy generator shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research;

(2) compensation for energy supplied to the utility by the tax exempt entity shall be not less than 150% of the utility's monthly system average cost of energy per kilowatt hour. The utility may credit such compensation to the tax exempt entity's account or pay such compensation to the entity at least annually or when the total compensation due equals \$25 or more;

(3) in addition to the existing customer service and any other charges, the utility shall charge the tax exempt entity no more than twice the state corporation commission approved customer service

charge per month as a provisional charge for being available to supply the entity's electric load;

(4) the tax exempt entity or renewable energy generator 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 operation of the renewable energy facility in parallel with the utility's system. In addition, the utility may install, own and maintain a disconnecting device located near the electric meter or meters at no cost to the tax exempt entity or renewable energy generator. Interconnection facilities between the equipment of the tax exempt entity or renewable energy generator and the equipment of the utility shall be accessible at all reasonable times to utility personnel; and

(5) the tax exempt entity or renewable energy generator 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 renewable energy facility contain a switch, circuit breaker, fuse or other easily accessible device or feature located in immediate proximity to the facility'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.

(d) A utility may not require a tax exempt entity or renewable energy generator that meets the standards in this section to comply with additional safety or performance standards, install any additional controls, perform or pay for additional tests or purchase additional liability insurance for a renewable energy facility. A utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a renewable energy facility or for the acts or omissions of the tax exempt entity or renewable energy generator that cause loss or injury, including death, to any third party.

(e) Service under any contract entered into 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.

(f) In any case where the tax exempt entity and the utility cannot agree to terms and conditions of any contract provided for by this section, the state corporation commission shall establish the terms and conditions for such contract.

Sec. 2. K.S.A. 2013 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. 2013 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, 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.";

On page 8, in line 9, before "K.S.A." by inserting "K.S.A. 66-1,170 and"; also in line 9, after "Supp." by inserting "66-104,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the second semicolon by inserting "relating to the sale of energy; public utilities, definitions, exceptions; in line 2, after "amending" by inserting "K.S.A. 66-1,170 and"; also in line 2, after "Supp." by inserting "66-104,"

Senator _____