

**SENATE BILL No. 408**

By Committee on Ways and Means

2-17

1 AN ACT concerning electricity; related to retail sales of electric  
2 generation; creating the Kansas electricity competition and choice act;  
3 amending K.S.A. 17-4654, 66-101a and 66-117 and K.S.A. 2013 Supp.  
4 45-221 and repealing the existing sections; also repealing K.S.A. 12-  
5 897, 66-1,170, 66-1,171, 66-1,173, 66-1,175 and 66-1,176 and K.S.A.  
6 2013 Supp. 66-1,174.

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

9 New Section 1. This act shall be known and may be cited as the  
10 Kansas electricity competition and choice act.

11 New Sec. 2. As used in this act:

12 (a) (1) "Account" means a right to payment of a monetary obligation,  
13 whether or not earned by performance:

14 (A) for property which has been or is to be sold, leased, licensed,  
15 assigned or otherwise disposed of;

16 (B) for services rendered or to be rendered;

17 (C) for a policy of insurance issued or to be issued;

18 (D) for a secondary obligation incurred or to be incurred;

19 (E) for energy provided or to be provided;

20 (F) for the use or hire of a vessel under a charter or other contract;

21 (G) arising out of the use of a credit or charge card or information  
22 contained on or for use with the card; or

23 (H) as winnings in a lottery or other game of chance operated or  
24 sponsored by a state, governmental unit of a state or person licensed or  
25 authorized to operate such game by a state or governmental unit of a state.

26 (2) "Account" includes health care insurance receivables, but does not  
27 include:

28 (A) rights to payment evidenced by chattel paper or an instrument;

29 (B) commercial tort claims;

30 (C) deposit accounts;

31 (D) investment property;

32 (E) letter of credit right or letters of credit; or

33 (F) rights to payment for money or funds advanced or sold, other than  
34 rights arising out of the use of a credit or charge card or information  
35 contained on or for use with the card.

36 (b) "Aggregator" means an entity, licensed by the commission, that

1 purchases electric energy and takes title to electric energy as an  
2 intermediary for sale to retail electric customers.

3 (c) "Assignee" means an entity, including a corporation, public  
4 authority, trust or financing vehicle, to which an electric public utility  
5 assigns, sells or transfers, other than as security, all or a portion of its  
6 interest in or right to intangible transition property. "Assignee" includes an  
7 entity, including a corporation, public authority, trust or financing vehicle  
8 to which a direct assignee of an electric public utility may assign, sell or  
9 transfer, other than as security, its interest in or right to intangible  
10 transition property.

11 (d) "Bilateral contract" means an agreement, as approved by the  
12 commission, reached by two parties, each acting in its own independent  
13 self-interest, as a result of negotiations free of undue influence, duress or  
14 favoritism, in which the electric energy supplier agrees to sell and the  
15 electric distribution utility agrees to buy a quantity of electric energy at a  
16 specified price for a specified period of time under terms agreed to by both  
17 parties and which follows a standard industry template widely accepted in  
18 the industry or variations thereto accepted by the parties. Standard industry  
19 templates may include the EEI master agreement for physical energy  
20 purchases and sales and the ISDA master agreement for financial energy  
21 purchases and sales.

22 (e) "Broker" or "marketer" means an entity, licensed by the  
23 commission, that acts as an agent or intermediary in the sale and purchase  
24 of electric energy, but that does not take title to electric energy.

25 (f) "certificated service territory" means an electric distribution  
26 territory certified to a territorial service provider pursuant to this act.

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

28 (h) "Competitive transition charge" means a non-bypassable charge  
29 applied to the bill of every retail electric customer accessing the transition  
30 or distribution network which is designed to recover an electric public  
31 utility's transition or stranded costs as determined by the commission  
32 under sections 4 and 14, and amendments thereto.

33 (i) "Conservation service provider" means an entity that provides  
34 information and technical assistance on measures to enable a person to  
35 increase energy efficiency or reduce energy consumption and that has no  
36 direct or indirect ownership, partnership or other affiliated interest with an  
37 electric distribution utility.

38 (j) "Cooperative" has the same meaning as in K.S.A. 17-4603, and  
39 amendments thereto.

40 (k) "Departing member" means a member-consumer served at retail  
41 by an electric cooperative corporation that has given notice of intent to  
42 receive generation service from another source or that is otherwise in the  
43 process of changing generation suppliers. Departing members shall remain

1 members of the electric distribution cooperative corporation for purposes  
2 of distribution service.

3 (l) "Direct access" means the right of electric generation suppliers and  
4 retail electric customers to utilize and interconnect with the electric  
5 transmission and distribution system on a nondiscriminatory basis at rates,  
6 terms and conditions of service comparable to the transmission and  
7 distribution companies' own use of the system to transport electricity from  
8 a generator of electricity to any retail electric customer.

9 (m) "Electric-consuming facility" means everything that utilizes  
10 electric energy from a central station source.

11 (n) "Electric distribution utility" means the public utility providing  
12 facilities for the transmission and distribution of electricity to retail electric  
13 customers, except building or facility owners or operators that manage the  
14 internal distribution system serving such building or facility and that  
15 supply electric power and other related electric power services to  
16 occupants of the building or facility.

17 (o) "Electric distribution service" means the provision of facilities for  
18 the transmission and distribution of electricity to retail electric customers.

19 (p) "Electric distribution utility total annual revenue" means amounts  
20 paid by retail electric customers to the electric distribution utility for  
21 generation, transmission, distribution and surcharges.

22 (q) (1) "Electric generation supplier" means a person or entity,  
23 including municipal corporations which choose to provide service outside  
24 their municipal limits except to the extent provided prior to January 1,  
25 2015, brokers and marketers, aggregators or any other entities, that sell to  
26 electric retail customers electricity or related services utilizing the  
27 jurisdictional transmission and distribution facilities of an electric  
28 distribution utility.

29 (2) "Electric generation supplier" does not include:

30 (A) Building or facility owners or operators who manage the internal  
31 distribution system serving such building or facility and who supply  
32 electric power and other related power services to occupants of such  
33 building or facility; or

34 (B) electric cooperative corporations, except as provided for in this  
35 act.

36 (r) "Electric public utility" has the meaning provided in K.S.A. 66-  
37 101a, and amendments thereto.

38 (s) "Energy efficiency and conservation measures" means:

39 (1) Technologies, management practices or other measures employed  
40 by retail electric customers that reduce electricity consumption or demand  
41 if:

42 (A) The technology, practice or other measure is installed on or after  
43 January 15, 2027, at the premises of a retail electric customer;

1 (B) the technology, practice or other measure reduced consumption of  
2 energy or peak load by the retail electric customer; and

3 (C) the cost of the acquisition or installation of the measure is directly  
4 incurred in whole or in part by the electric distribution utility.

5 (2) "Energy efficiency and conservation measures" includes solar or  
6 solar photovoltaic panels; energy efficient windows and doors; energy  
7 efficient lighting, including exit sign retrofit; high bay fluorescent retrofit  
8 and pedestrian and traffic signal conversion; geothermal heating;  
9 insulation; air sealing; reflective roof coatings; energy efficient heating and  
10 cooling equipment or systems; and energy efficient appliances and other  
11 technologies, practices or measures approved by the commission.

12 (t) "Financing party" means a holder of transition bonds, including  
13 trustees, collateral agents and other entities acting for the benefit of such a  
14 holder.

15 (u) "General intangible" means any personal property, including  
16 things in action, other than accounts, chattel paper, commercial tort claims,  
17 deposit accounts, documents, goods, instruments, investment property,  
18 letter of credit rights, letters of credit, money and oil, gas or other minerals  
19 before extraction. "General intangible" includes payment intangibles and  
20 software.

21 (v) "Governing body" means the governing body of a city or the  
22 board of county commissioners of a county.

23 (w) "Intangible transition charge" means the amounts authorized to be  
24 imposed on all customer bills and collected, through a non-bypassable  
25 mechanism by the electric public utility or its successor or by any other  
26 entity which provides electric service to a person that was a customer of an  
27 electric public utility located within the certificated service territory of the  
28 electric public utility on or after January 1, 2015, and that became a  
29 customer of electric services within such territory and is still located  
30 within such territory, to recover qualified transition expenses pursuant to a  
31 qualified rate order. The amounts shall be allocated to customer classes in  
32 a manner that does not shift interclass or intraclass costs and maintains  
33 consistency with the allocation methodology for a utility production plant  
34 accepted by the commission in the electric public utility's most recent base  
35 rate proceeding.

36 (x) "Intangible transition property" means:

37 (1) The property right created pursuant to section 17, and  
38 amendments thereto, representing the irrevocable right of the electric  
39 public utility or an assignee to receive through intangible transition  
40 charges amounts sufficient to recover all of its qualified transition  
41 expenses.

42 (2) "Intangible transition property" includes all rights, title and  
43 interest of the electric public utility or assignee in the qualified rate order

1 and in all revenues, collections, claims, payments, money or proceeds of or  
2 arising from intangible transition charges pursuant to the order to the  
3 extent that, in accordance with this chapter, the order and the rates and  
4 other charges authorized under the order are declared to be irrevocable.

5 (3) Intangible transition property shall arise and exist only when, as  
6 and to the extent that, an electric public utility or assignee has qualified  
7 transition expenses for which intangible transition charges are authorized  
8 in a qualified rate order that has become effective in accordance with  
9 section 17, and amendments thereto, and shall thereafter continuously exist  
10 to the extent provided in the order.

11 (y) "Municipality" means any city or county.

12 (z) "Peak demand" means the highest electrical requirement occurring  
13 during a specified period of time. For an electric distribution utility, "peak  
14 demand" shall include the sum of the metered consumption for all retail  
15 electric customers of such period of time.

16 (aa) "Qualified rate order" means an order of the commission adopted  
17 in accordance with section 17, and amendments thereto, authorizing the  
18 imposition and collection of intangible transition charges.

19 (bb) "Qualified transition expenses" means the transition or stranded  
20 costs of an electric public utility approved by the commission for recovery  
21 pursuant to section 17, and amendments thereto, through:

22 (1) The issuance of transition bonds;

23 (2) the costs of retiring existing debt or equity capital of the electric  
24 public utility or its holding company parent, including accrued interest and  
25 acquisition or redemption premium, costs of defeasance, and other related  
26 fees, costs and charges relating to, through the issuance of transition bonds  
27 or the assignment, the sale or other transfer of intangible transition  
28 property; and

29 (3) the costs incurred to issue, service or refinance the transition  
30 bonds, including accrued interest and an acquisition or redemption  
31 premium, and other related fees costs and charges, or to assign, sell or  
32 otherwise transfer intangible transition property.

33 (cc) "Quality assurance" includes:

34 (1) The auditing of buildings, equipment and processes to determine  
35 the cost-effectiveness of energy efficiency and conservation measures  
36 using nationally recognized tools and certification programs; or

37 (2) independent inspection of completed energy efficiency and  
38 conservation measures completed by a third-party entity to evaluate the  
39 quality of the completed measure.

40 (dd) "Real-time price" means a rate that directly reflects the different  
41 cost of energy during each hour.

42 (ee) "Reliability" means the provision of sufficient generation,  
43 transmission and distribution capacity so as to supply the aggregate

1 electric power and energy requirements of customers, taking into account  
2 scheduled and unscheduled outages of system facilities. "Reliability"  
3 includes adequacy and security. For purposes of the meaning of  
4 "reliability," the term "security" means designing, maintaining and  
5 operating a system so that it can handle emergencies safely while  
6 continuing to operate.

7 (ff) "Retail electric customer" means a direct purchaser of electric  
8 power. "Retail electric customer" does not include an occupant of a  
9 building or facility where: (1) The owner or operator manages the internal  
10 distribution system serving such building or facility and supplies electric  
11 power and other related power services to occupants of the building or  
12 facility; (2) the owner or operator is a direct purchaser of electric power;  
13 and (3) the occupants are not direct purchasers of electric power.

14 (gg) "Smart meter technology" means technology, including metering  
15 technology and network communications technology capable of bi-  
16 directional communication, that records electricity usage on at least an  
17 hourly basis, including related electric distribution system upgrades to  
18 enable the technology. "Smart meter technology" shall: (1) Provide  
19 customers with direct access to and use of price and consumption  
20 information; (2) directly provide customers with information on their  
21 hourly consumption; (3) enable time-of-use rates and real-time price  
22 programs; and (4) effectively support the automatic control of the  
23 customer's electricity consumption by one or more of the following, as  
24 chosen by the customer: (A) The customer; (B) the customer's utility; or  
25 (C) a third party engaged by the customer or the customer's utility.

26 (hh) "Territorial service provider" means an electric distribution  
27 utility within its certificated service territory or an alternative supplier  
28 approved by the commission that provides generation service to retail  
29 electric customers who:

30 (1) Contract for electric power, including energy and capacity, and the  
31 chosen electric generation supplier does not supply the service; or

32 (2) do not choose an alternative electric generation supplier.

33 (ii) "Time-of-use rate" means a rate that reflects the costs of serving  
34 customers during different time periods, including off-peak and on-peak  
35 periods, but does not have to be as frequently as each hour.

36 (jj) "Total resource cost test" means a standard test that is met if, over  
37 the effective life of each plan, not to exceed 15 years, the net present value  
38 of the avoided monetary cost of supplying electricity is greater than the net  
39 present value of the monetary cost of energy efficiency conservation  
40 measures.

41 (kk) "Transition bonds" means bonds, debentures, notes, certificates  
42 of participation or of beneficial interest or other evidences of indebtedness  
43 or ownership, which:

1 (1) Are issued by or on behalf of the electric public utility or assignee  
2 pursuant to a qualified rate order;

3 (2) are secured by or payable from intangible transition property; and

4 (3) reach final maturity within 10 years.

5 (II) (1) "Transition or stranded cost" means an electric public utility's  
6 known and measurable net electric generation-related costs, determined on  
7 a net present value basis over the life of the asset or liability as part of its  
8 restructuring plan, which traditionally would be recoverable under a  
9 regulated environment, but which may not be recoverable in a competitive  
10 electric generation market and which the commission determines will  
11 remain following mitigation by the electric public utility. The  
12 recoverability of transition or stranded costs shall be determined by the  
13 commission pursuant to section 14, and amendments thereto (relating to  
14 competitive transition charge).

15 (2) "Transition or stranded cost" includes:

16 (A) Regulatory assets and other deferred charges typically  
17 recoverable under regulatory practices in effect prior to January 1, 2015,  
18 the unfunded portion of the utility's projected nuclear generation facility  
19 decommissioning costs and cost obligations under contracts with  
20 nonutility generating projects which have received a commission order.

21 (B) Prudently incurred costs related to cancellation, buyout, buydown  
22 or renegotiation of nonutility generating projects.

23 (C) The following: (i) Net plant investments and costs attributable to  
24 the utility's existing generation plants and facilities; (ii) the utility's  
25 disposal of spent nuclear fuel; (iii) the utility's long-term purchase power  
26 commitments, not including the costs pursuant to paragraphs (A) and (B);  
27 (iv) retirement costs attributable to the utility's existing generating plants,  
28 not including the costs pursuant to paragraph (A); and (v) other transition  
29 costs of the utility, including costs of employee severance, retraining, early  
30 retirement, outplacement and related expenses, at reasonable levels, for  
31 employees who are affected by changes that occur as a result of the  
32 restructuring of the electric industry pursuant to this act.

33 (3) "Transition or stranded cost" includes any costs attributable to  
34 physical plants no longer used and useful because of the transition to retail  
35 competition, but does not include any costs previously disallowed by the  
36 commission as imprudently incurred. To the extent that the recoverability  
37 of amounts that are sought to be included as transition or stranded costs are  
38 subject to appellate review as of the time of the commission determination,  
39 any determination to include such costs shall be reversed to the extent  
40 required by such appellate review.

41 (mm) "Transition surcharge" means the total stranded costs payable  
42 to an electric cooperative corporation as a condition precedent to a  
43 member-consumer of an electric cooperative corporation having the right

1 to receive electric generation service from another source.

2 (nn) "Universal service and energy conservation" means policies,  
3 protections and services that help low-income customers to maintain  
4 electric service. "Universal service and energy conservation" includes  
5 customer assistance programs and policies and services that help low-  
6 income customers to reduce or manage energy consumption in a cost-  
7 effective manner.

8 New Sec. 3. (a) Subject to the provisions of this act, the commission  
9 shall cause the state to be divided into certificated service territories that  
10 shall be identical in composition to the certificated service territories in  
11 existence at the time of the effective date of this act. Within each such  
12 territory, only one territorial service provider shall provide electric  
13 distribution service, and any such territory established for a provider  
14 pursuant to this section shall be certificated to such provider by the  
15 commission and customers in such certificated service territory shall be  
16 provided electric distribution service exclusively by such provider. Except  
17 by a commission-approved agreement with another utility, or as further  
18 provided for in this section, each provider shall continue to have the  
19 exclusive right to serve all customers being served by the provider on  
20 January 1, 2015. Each provider shall continue to have the exclusive right  
21 to provide retail electric service to all customers the provider was serving  
22 prior to January 1, 2015, until the appropriate implementation dates for  
23 direct access pursuant to the requirements of section 7, and amendments  
24 thereto.

25 (b) Every territorial service provider shall have the exclusive right  
26 and responsibility to furnish electric distribution service to all electric  
27 consuming facilities located within the provider's certified territory, and  
28 shall not furnish, make available, render or extend its electric distribution  
29 service to a customer for use in electric consuming facilities located within  
30 the certificated service territory of another territorial service provider,  
31 except that with the approval of the commission, such provider may  
32 extend distribution or transmission facilities through the certificated  
33 service territory of another territorial service provider if such extension is  
34 necessary for such provider to connect with any of its facilities or those of  
35 others to serve customers within its own certificated service territory.

36 New Sec. 4. (a) The commission shall:

37 (1) Use the standards contained herein to: (A) Assess and approve  
38 each competitive electricity supplier's restructuring plan; (B) oversee the  
39 transition process; and (C) regulate the restructured electric public utility  
40 industry.

41 (2) Ensure continuation of safe and reliable electric service to all  
42 retail electric customers of electricity in the state. Such service includes:

43 (A) The maintenance of adequate reserve margins by electric

1 generation suppliers, as recommended by the North American electric  
2 reliability corporation and the southwest power pool, or their successors,  
3 and in conformity with established industry standards and practices; and

4 (B) the installation and maintenance of transmission and distribution  
5 facilities in conformity with established industry standards and practices,  
6 including the standards set forth in the national electric safety code.

7 (3) Pursuant to the schedule set forth in section 7, and amendments  
8 thereto, ensure customers have the choice from among electric generation  
9 suppliers in a competitive generation market through direct access.  
10 Customers shall have the choice of the following options, including, but  
11 not limited to:

12 (A) Firm service; and

13 (B) flexible pricing and alternate generation sources, including  
14 reasonable and fair opportunities to self-generate and interconnect.

15 (4) Ensure electric public utility services, tariffs and customer bills  
16 are unbundled to separate the charges for generation, transmission and  
17 distribution. The commission may require electric public utility services to  
18 unbundle other services as it deems necessary.

19 (5) Apply the utility restructuring rate caps set forth in section 5, and  
20 amendments thereto.

21 (6) Consistent with section 7, and amendments thereto, ensure that a  
22 public utility that owns or operates transmission and distribution facilities  
23 in Kansas shall provide transmission and distribution service to all retail  
24 electric customers in its certificated distribution territory pursuant to  
25 section 3, and amendments thereto, and to electric cooperatives and  
26 electric generation suppliers, affiliated or nonaffiliated. Such service shall  
27 provide rates, terms of access and conditions that are comparable to the  
28 utility's own use of its system.

29 (7) Require that restructuring of the electric public utility industry be  
30 implemented in a manner that does not unreasonably discriminate against  
31 one customer class to the benefit of another.

32 (8) Establish for each electric public utility an appropriate cost-  
33 recovery mechanism, which shall be designed to fully recover the electric  
34 public utility's universal service and energy conservation costs over the life  
35 of these programs.

36 (9) Ensure that universal service and energy conservation policies,  
37 activities and services are appropriately funded and available in each  
38 electric distribution territory. Such policies, activities and services shall be  
39 funded in each electric distribution territory by non-bypassable,  
40 competitively neutral cost-recovery mechanisms that fully recover the  
41 costs of universal service and energy conservation services. Programs  
42 under this subsection shall be subject to the administrative oversight of the  
43 commission which shall ensure that the programs are operated in a cost-

1 effective manner.

2 (10) Establish rates for jurisdictional transmission and distribution  
3 services and shall continue to regulate distribution services for new and  
4 existing customers in accordance with chapter 66 of the Kansas Statutes  
5 Annotated, and amendments thereto.

6 (11) Ensure the schedule for the transition to and phase-in of direct  
7 access to competitive electric generation is done pursuant to section 7, and  
8 amendments thereto.

9 (12) Have the authority to order utility participation in retail access  
10 pilot programs as set forth in section 9, and amendments thereto, and as  
11 further implemented or modified by the commission, with direct access to  
12 begin on April 1, 2015. The commission shall conduct quarterly reviews of  
13 the transition to retail electric generation competition to ensure a  
14 technically workable and equitable transition period.

15 (13) Consistent with section 14, and amendments thereto, have the  
16 power to approve a competitive transition charge for the recovery of  
17 transition or stranded costs the commission determines to be just and  
18 reasonable to recover from ratepayers.

19 (14) Ensure the transition to a competitive generation market is  
20 orderly, protects electric system reliability, is fair to rate payers and  
21 provides electric investor-owned utilities with a fair opportunity to fully  
22 recover the amount of transition or stranded costs that the commission  
23 determines to be just and reasonable.

24 (b) At the time each utility files a restructuring plan with the  
25 commission, the utility shall submit an initial plan that sets forth how  
26 universal service and energy conservation obligations shall be met.

27 New Sec. 5. (a) Until January 1, 2020, or until an electric distribution  
28 utility is no longer recovering its transition or stranded costs through a  
29 competitive transition charge or intangible transition charge and all the  
30 customers of such electric distribution utility have the ability to choose an  
31 alternative provider of electric generation, whichever is shorter:

32 (1) The total charges of an electric distribution utility for service to  
33 any customer who purchases generation from such electric distribution  
34 utility shall not exceed the total charges that have been approved by the  
35 commission for such service as of January 1, 2015; and

36 (2) for customers who purchase generation from a supplier other than  
37 the electric distribution utility, the charges of the utility for non-generation  
38 services that are regulated as of January 1, 2015, excluding the competitive  
39 transition charge and intangible transition charge, shall not exceed the non-  
40 generation charges that have been approved by the commission for such  
41 service as of January 1, 2015.

42 (b) In addition to the cap set forth in subsection (a), prior to January  
43 1, 2024, or until an electric distribution utility is no longer recovering its

1 transition or stranded costs through a competitive transition charge or  
2 intangible transition charge and all the customers of such electric  
3 distribution utility can choose an alternative provider of electric  
4 generation, whichever is shorter, the generation component of an electric  
5 distribution utility's charges to customers who purchase generation from  
6 such electric distribution utility, including the competitive transition  
7 charge and intangible transition charge, shall not exceed the generation  
8 component charged to the customers that has been approved by the  
9 commission for such service as of January 1, 2015.

10 (c) Upon request by an electric distribution utility, the commission  
11 may approve an exemption to the electric public utility retail rate caps set  
12 forth in subsections (a) and (b) if:

13 (1) The electric distribution utility meets the requirements for good  
14 cause rate relief pursuant to K.S.A. 66-117, and amendments thereto;

15 (2) the electric distribution utility: (A) Is required to begin payment  
16 under contract for nonutility generation projects that have received  
17 commission orders; (B) has been unable to mitigate such costs; (C) such  
18 costs are not recoverable in a competitive generation market; and (D) such  
19 costs were not previously covered in the competitive transition charge or  
20 intangible transition charge;

21 (3) the electric public utility prudently incurs costs related to  
22 cancelation, buyout, buy-down or renegotiation of nonutility generating  
23 project obligations of such electric distribution utility relating to co-  
24 generation and such costs were not previously covered in the competitive  
25 transition charge or intangible transition charge;

26 (4) the electric distribution utility is subject to significant increases in  
27 the rates of federal or state taxes or other significant changes in law or  
28 regulations that would not allow the utility to earn a fair rate of return;

29 (5) the electric distribution utility is subject to either significant  
30 increases in the unit rate of fuel for utility generation or significant  
31 increases in the price of purchased power if such increases are outside the  
32 control of the utility and would not allow the utility to earn a fair rate of  
33 return;

34 (6) the electric distribution utility is directed by the commission or an  
35 independent system operator or its functional equivalent to make  
36 expenditures to repair or upgrade its transmission or distribution system;  
37 or

38 (7) the electric distribution utility seeks to increase its allowance for  
39 nuclear decommissioning costs to reflect new information not available at  
40 the time the utility's existing rates were determined and such costs: (A) Are  
41 not recoverable in the competitive generation market; (B) are not covered  
42 in the competitive transition charge or intangible transition charge; and (C)  
43 would not allow the utility to earn a fair rate of return.

1 (d) Any costs related to cancelation, buyout, buy-down or  
2 renegotiation shall be recovered from ratepayers over a period not to  
3 exceed three years, unless the commission deems it necessary to require a  
4 longer recovery period due to the magnitude of such costs, but such costs  
5 shall be accounted for by the electric distribution utility on a level basis  
6 over the total period in which the generation portion of the electric  
7 distribution utility's rates are capped.

8 (e) If an electric distribution utility rolls its energy cost rate into base  
9 rates at a combined level that does not exceed its combined level of such  
10 rates which have been approved by the commission as of January 1, 2015,  
11 the utility shall not be required to reduce its capped rates below the capped  
12 level upon the complaint of any party if the commission determines that  
13 any excess earnings achieved under the cap are utilized to mitigate  
14 transition or stranded costs for the benefit of ratepayers or to offset other  
15 known and measurable cost increases that would be recoverable under  
16 traditional ratemaking, but are not included within the capped rates.

17 (f) This section shall not apply to new services offered for the first  
18 time on or after January 1, 2015.

19 New Sec. 6. (a) The commission shall take all necessary and  
20 appropriate steps to encourage interstate power pools to enhance  
21 competition and to complement industry restructuring on a regional basis.  
22 The state of Kansas, the commission and Kansas electric utilities shall  
23 work with the federal government, other states in the region and interstate  
24 power pools to accomplish the goals of restructuring and to establish  
25 independent system operators or their functional equivalents to operate the  
26 transmission system and interstate power pools to accomplish the goals of  
27 restructuring and to establish independent system operators or their  
28 functional equivalents to operate the transmission system and interstate  
29 power pools. The commission, Kansas electric utilities and all electricity  
30 suppliers shall work with the federal government, other states in the  
31 region, the North American electric reliability corporation and its regional  
32 coordinating councils or their successors, interstate power pools and with  
33 the independent system operator or its functional equivalent, to ensure the  
34 continued provision of adequate, safe and reliable electric service to the  
35 citizens and businesses of the state.

36 (b) (1) In order to make the benefits of competition in generation and  
37 the sale of electricity as widely available as possible to retail electric  
38 customers and to provide open, fair and nondiscriminatory access to all  
39 electric generation suppliers, no municipality which distributes electricity  
40 to end-use customers may utilize the transmission or distribution system of  
41 an electric public utility regulated by the commission for the purpose of  
42 supplying electricity to an end-use customer outside the city limits of such  
43 municipality unless the municipality provides open and nondiscriminatory

1 access and allows other electric generation suppliers to utilize its facilities,  
2 including any facilities it is entitled to provide to third parties pursuant to  
3 contract, to make sales to the end-use customers it serves. A municipality  
4 may prohibit electric generation suppliers from serving end-use customers  
5 within its city limits; however, such municipality shall be prohibited from  
6 providing generation service to end-use customers outside its city limits  
7 which it did not serve prior to January 1, 2015. The provisions of this  
8 subsection shall not be construed to prevent a municipality from  
9 distributing, transmitting or selling electricity to another municipality as  
10 part of an agreement for the joint aggregation of the municipalities  
11 pursuant to section 26, and amendments thereto.

12 (2) No electric public utility regulated by the commission and no  
13 affiliate of such electric public utility may use the distribution system of  
14 another electric public utility regulated by the commission or make sales to  
15 end-use customers in another electric public utility's certificated service  
16 territory unless the commission has approved a restructuring plan for the  
17 supplying electric public utility which provides for direct access  
18 comparable to the direct accesses provided under the approved plan of the  
19 electric public utility operating the distribution system in the location  
20 where the supplying electric public utility seeks to sell electricity to an  
21 end-use customer.

22 New Sec. 7. (a) Except as provided for by this act, the generation of  
23 electricity shall no longer be regulated as a public utility service or  
24 function at the conclusion of a transition and phase-in period beginning on  
25 January 1, 2015, and ending, consistent with the commission's discretion  
26 under this section, January 1, 2020. As of January 1, 2020, consistent with  
27 the commission's discretion under this section, all customers of electric  
28 distribution companies in the state shall have the opportunity to purchase  
29 electricity from their choice of electric generation suppliers.

30 (b) Recognizing that approximately 5% of the peak load will have  
31 retail access through pilot programs, the following schedule for phased  
32 implementation of retail access shall be adhered to unless the commission  
33 determines an additional transition period is necessary pursuant to  
34 subsection (c):

35 (1) As of January 1, 2018, a maximum of 33% of the peak load of  
36 each customer class shall have the opportunity for direct access;

37 (2) as of January 1, 2019, a maximum of 66% of the peak load of  
38 each customer class shall have the opportunity for direct access; and

39 (3) as of January 1, 2020, all customers of electric distribution  
40 companies in the state shall have the opportunity for direct access.

41 (c) The commission shall establish rules and regulations specifying  
42 that, within each customer class, the customers eligible for direct access  
43 prior to full direct access shall be determined on a first-come, first-served

1 basis unless otherwise determined by the commission to prevent  
2 competitive disadvantages among similarly situated customers within a  
3 customer class.

4 (d) (1) Prior to the implementation date of January 1, 2018, the  
5 commission may determine that an additional six-month transition period  
6 is necessary. If the commission determines the first additional six-month  
7 transition period is insufficient, the commission may, at least 45 days  
8 before the expiration of the initial transition period, authorize one  
9 additional six-month transition period. Such determinations shall be made  
10 at least 45 days in advance of the scheduled date for implementation and  
11 shall be based on one or more of the following considerations:

12 (A) Implementation would materially affect the reliability of the  
13 electric system;

14 (B) federal approvals necessary for the implementation of the  
15 provisions of this act have not been granted;

16 (C) communications and information systems necessary for the  
17 implementation of retail access, as measured by industry standards, have  
18 not been installed for reasons beyond the utility's control;

19 (D) Kansas generators would be disadvantaged due to lack of  
20 regional reciprocity with respect to direct access;

21 (E) the interests of Kansas citizens and the competitive position of  
22 Kansas business and industry would be materially affected; and

23 (F) such other considerations as would materially affect the orderly  
24 implementation of the legislative purpose of this act.

25 New Sec. 8. (a) All electric utilities in the state shall submit to the  
26 commission a restructuring plan to implement direct access to a  
27 competitive market for the generation of electricity. Such restructuring  
28 plans shall be submitted based on a schedule determined by the  
29 commission in consultation with electric utilities, beginning on April 1,  
30 2016, and ending on September 30, 2016.

31 (b) Restructuring plans submitted pursuant to this section shall  
32 include:

33 (1) Unbundled prices or rates for generation, jurisdictional  
34 transmission, distribution and other services;

35 (2) a proposed competitive transition charge;

36 (3) a proposed universal service and energy conservation cost-  
37 recovery mechanism;

38 (4) procedures for ensuring direct access to all certificated electric  
39 generation suppliers;

40 (5) a discussion of the impacts of the proposed plan on the utility's  
41 employees; and

42 (6) revised tariffs and rate schedules implementing such restructuring  
43 plan.

1 (c) The commission shall review the restructuring plans filed by each  
2 electric public utility and shall, after notice and an opportunity to be heard  
3 pursuant to the Kansas administrative procedure act, issue an order  
4 accepting, modifying or rejecting such plans nine months from the date  
5 such restructuring plan was filed. If the commission rejects a restructuring  
6 plan, it shall state the specific reasons for rejection and direct the electric  
7 public utility to file an alternative plan addressing such objections within  
8 30 days of the entry date of the commission order rejecting the plan. The  
9 commission shall review the alternative plan, solicit comments from  
10 interested parties and issue a final order within 45 days of the filing of the  
11 revised plan.

12 (d) The commission shall have the authority to approve flexible  
13 pricing and flexible rates, including negotiated, contract-based tariffs  
14 designed to meet the specific needs of a utility customer and to address  
15 competitive alternatives.

16 (e) The commission shall have the authority to use performance-  
17 based rates as an alternative to an existing rate base, or rate-of-return  
18 ratemaking, subject to the restrictions pertaining to rate caps in section 5,  
19 and amendments thereto.

20 New Sec. 9. (a) On and after January 1, 2015, the commission may  
21 order electric utilities to submit proposals for retail access pilot programs  
22 to begin April 1, 2016. The commission shall issue an order providing  
23 guidelines for retail access pilot programs.

24 (b) In order to determine whether all customer classes can benefit  
25 from competitive markets, electric utilities shall tailor proposed retail  
26 access pilot programs to accommodate the specific geographic,  
27 demographic and socioeconomic characteristics of their customer base.  
28 Retail access pilot programs shall include an equal opportunity for the  
29 broadest practical direct access by all customer classes to electric  
30 generation suppliers.

31 (c) The minimum period of time for a retail access pilot program shall  
32 be one year and shall include an evaluation process as directed by the  
33 commission.

34 (d) To ensure the safety and reliability of the generation of electricity,  
35 participation in the retail access pilot programs shall be limited to  
36 electricity suppliers subject to commission licensure or certification.

37 (e) (1) Each participating electricity supplier shall:

38 (A) Provide the commission with the address of the participant's  
39 principal office in the state or the address of the participant's registered  
40 agent in the state, which participant may be served process; and

41 (B) agree that it shall be subject to all taxes imposed by the Kansas  
42 Statutes Annotated, and amendments thereto.

43 (2) The commission may revoke the certificate of a participating

1 electricity supplier for failure to comply with the provisions of this  
2 subsection.

3 (f) The percentage of utility load committed to a retail access pilot  
4 program shall be 5% of the utility's peak load for each customer class.  
5 Waivers of this condition may be considered by the commission for  
6 economic development purposes or special circumstances.

7 New Sec. 10. (a) The commission shall, by January 15, 2027, adopt  
8 an energy efficiency and conservation program to require electric  
9 distribution companies to adopt and implement cost-effective energy  
10 efficiency and conservation plans to reduce energy demand and  
11 consumption within the certificated service territory of each electric  
12 distribution utility in the state. The commission shall recover the costs of  
13 implementing the program established under this section from the electric  
14 distribution companies.

15 (b) The program shall include:

16 (1) Procedures for the approval of submitted energy efficiency and  
17 conservation plans;

18 (2) an evaluation process, including a process to monitor and verify  
19 data collection, quality assurance and results of each plan and the program;

20 (3) an analysis of the cost and benefit of each submitted plan pursuant  
21 to a total resource cost test approved by the commission;

22 (4) an analysis of how the program and individual plans will enable  
23 each electric distribution utility to achieve or exceed the requirements of  
24 this section for reduction in consumption;

25 (5) standards to ensure that each plan includes a variety of energy  
26 efficiency and conservation measures and will provide the measures  
27 equitably to all classes of customers;

28 (6) procedures to make recommendations as to additional measures  
29 that will enable an electric distribution utility to improve its plan and  
30 exceed the required reductions in consumption pursuant to this section;

31 (7) procedures to require electric distribution companies  
32 competitively bid all contracts with conservation service providers;

33 (8) procedures to review all proposed contracts prior to the execution  
34 of the contract with conservation service providers to implement the plan.  
35 The commission may order the modification of a proposed contract to  
36 ensure that the plan meets the requirements for reduction in demand and  
37 consumption pursuant to this section;

38 (9) procedures to ensure compliance with requirements for reduction  
39 in consumption pursuant to this section;

40 (10) a requirement for the participation of conservation service  
41 providers in the implementation of all or part of a plan; and

42 (11) cost recovery to ensure that measures approved are financed by  
43 the same customer class that will receive the direct energy conservation

1 benefits.

2 (c) (1) By July 1, 2027, each electric distribution utility shall file an  
3 energy efficiency and conservation plan with the commission for approval  
4 pursuant to the requirements of this section. The electric distribution utility  
5 shall implement the plan upon its approval by the commission.

6 (2) The energy efficiency and conservation plan shall include:

7 (A) Specific proposals to implement energy efficiency and  
8 conservation measures to achieve or exceed the required reductions in  
9 consumption pursuant to this section;

10 (B) a minimum of 10% of the required reductions in consumption  
11 pursuant to this section obtained from units of federal, state and local  
12 government, including municipalities, school districts, colleges and  
13 universities and nonprofit entities;

14 (C) an explanation of how quality assurance and performance will be  
15 measured, verified and evaluated;

16 (D) the manner in which the plan will achieve the requirements of the  
17 program and will exceed the required reductions in consumption pursuant  
18 to this section;

19 (E) a contract with one or more conservation service providers  
20 selected by competitive bid to implement the plan or a portion of the plan  
21 as approved by the commission;

22 (F) estimates of the cost of implementation of the energy efficiency  
23 and conservation measures in the plan;

24 (G) specific energy efficiency measures for households at or below  
25 150% of the federal poverty income guidelines. The number of measures  
26 shall be proportionate to such households' share of the total energy usage  
27 in the certificated service territory. The electric distribution utility shall  
28 coordinate measures under this section with other programs administered  
29 by the commission or another federal or state agency;

30 (H) a proposed cost-recovery tariff mechanism to fund the energy  
31 efficiency and conservation measures and to ensure full and current  
32 recovery of the prudent and reasonable costs of the plan, including  
33 administrative costs, as approved by the commission;

34 (I) a demonstration that the plan is cost effective using a total  
35 resource cost test approved by the commission and providing a diverse  
36 cross section of alternatives for customers of all rate classes;

37 (J) a requirement of an annual independent evaluation of its cost-  
38 effectiveness and a full review of the results of each five-year plan  
39 required pursuant to subsection (d) and, to the extent practical, how the  
40 plan will be adjusted on a going-forward basis as a result of the evaluation;

41 (K) an analysis of the electric distribution utility's administrative  
42 costs; and

43 (L) the manner in which the utility will meet the required reductions

1 in consumption pursuant to this section.

2 (3) A new energy efficiency and conservation plan shall be filed with  
3 the commission every five years or as otherwise required by the  
4 commission.

5 (4) No more than 2% of funds available to implement a plan under  
6 this subsection shall be allocated for experimental equipment or devices.

7 (5) After an adequate period of implementation, the commission shall  
8 direct an electric distribution utility to modify or terminate any part of an  
9 approved plan if the commission determines that any of the energy  
10 efficiency or conservation measures included in the plan will not achieve  
11 the required reductions in consumption in a cost-effective manner pursuant  
12 to this section. If part of a plan is modified or terminated under this  
13 paragraph, the electric distribution utility shall submit a revised plan  
14 describing actions to be taken to offer substitute measures or to increase  
15 the availability of existing measures in the plan to achieve the required  
16 reductions in consumption pursuant to this section.

17 (d) The plans adopted pursuant to this section shall reduce total  
18 annual weather-normalized electric consumption of the retail electric  
19 customers of each electric distribution utility by a minimum of:

20 (1) One percent on or before May 31, 2029; and

21 (2) three percent on or before May 31, 2031.

22 (3) The load reductions in electric consumption described in this  
23 subsection shall be measured against the electric distribution utility's  
24 expected load as forecasted by the commission for June 1, 2027, through  
25 May 31, 2028, with provisions made for weather adjustments and  
26 extraordinary loads that the electric distribution utility serves.

27 (e) On or before November 30, 2031, and every five years thereafter,  
28 the commission shall evaluate the costs and benefits of the program  
29 established pursuant to this section and of approved energy efficiency and  
30 conservation plans submitted to the program. The evaluation shall be  
31 consistent with a total resource cost test or a cost-benefit analysis  
32 determined by the commission. If the commission determines that the  
33 benefits of the program exceed the costs, the commission shall adopt  
34 additional required incremental reductions in consumption.

35 (f) The plans adopted pursuant to this section shall reduce electric  
36 demand as follows:

37 (1) On or before May 31, 2031, the weather-normalized demand of  
38 the retail electric customers of each electric distribution utility shall be  
39 reduced by a minimum of 4.5% of annual system peak demand in the 100  
40 hours of highest demand. The reduction shall be measured against the  
41 electric distribution utility's peak demand for June 1, 2027, through May  
42 31, 2026.

43 (2) On or before November 30, 2031, the commission shall compare

1 the total costs of energy efficiency and conservation plans implemented  
2 under this section to the total savings in energy and capacity costs for retail  
3 electric customers in the state or other costs determined by the  
4 commission. If the commission determines that the benefits of the plans  
5 exceed the costs, the commission shall set additional incremental  
6 requirements for reduction in peak demand for the 100 hours of greatest  
7 demand or an alternative reduction approved by the commission.  
8 Reductions in demand shall be measured from the electric distribution  
9 utility's peak demand for the period from June 1, 2029, through May 31,  
10 2030. The reductions in consumption required by the commission shall be  
11 accomplished no later than May 31, 2035.

12 (g) (1) The commission shall conduct a public hearing on each  
13 electric distribution utility's plan and allow for the submission of  
14 recommendations by the citizens utility ratepayer board and by members  
15 of the public as to how the electric distribution utility could improve its  
16 plan or exceed the required reductions in consumption pursuant to this  
17 section.

18 (2) The commission shall approve or disapprove a plan filed pursuant  
19 to this section within 120 days of submission.

20 (3) An order by the commission disapproving a plan shall include:

21 (A) A detailed description of the reasons for the disapproval; and

22 (B) an allowance of 60 days for the electric distribution utility to file  
23 a revised plan to address the deficiencies identified by the commission in  
24 the disapproval order. The commission shall issue a final order for a  
25 revised plan within 60 days of its submission to the commission.

26 (h) (1) An electric distribution utility that fails to submit:

27 (A) The plan required by this section shall be subject to a civil  
28 penalty of \$100,000 per day until the plan is filed with the commission; or

29 (B) a revised plan under subsection (f) shall be subject to a civil  
30 penalty of \$100,000 per day until the revised plan is filed with the  
31 commission.

32 (2) An electric distribution utility that fails to achieve the reductions  
33 in consumption pursuant to this section shall be subject to a civil penalty  
34 of not less than \$1,000,000 and not more than \$20,000,000. Any penalty  
35 paid by an electric distribution utility under this paragraph shall not be  
36 recoverable from the ratepayers.

37 (3) Any civil penalties assessed pursuant to this section shall be  
38 collected by the commission and paid to the state treasurer. The treasurer  
39 shall deposit all such transfers in the state treasury and credit the full  
40 amount to the fines account in the public service regulation fund.

41 (i) If an electric distribution utility fails to achieve the required  
42 reductions in consumption pursuant to this section, penalties shall be  
43 assessed pursuant to subsection (h)(2) and responsibility to achieve the

1 reductions in consumption shall be transferred to the commission. The  
2 commission shall:

3 (1) Implement a plan to achieve the required reductions in  
4 consumption pursuant to this section; and

5 (2) contract with conservation service providers as necessary to  
6 implement any portion of such plan.

7 (j) The total cost of any plan required pursuant to this section shall  
8 not exceed 2% of the electric distribution utility's total annual revenue as  
9 of December 31, 2024.

10 (k) (1) After the implementation of a plan, each electric distribution  
11 utility shall submit an annual report to the commission relating to the  
12 results of the energy efficiency and conservation plan within each electric  
13 distribution certificated service territory. Such report shall include:

14 (A) Documentation of program expenditures;

15 (B) measurement and verification of energy savings under the plan;

16 (C) evaluation of the cost-effectiveness of expenditures; and

17 (D) any other information required by the commission.

18 (2) Beginning on January 15, 2032, and on or before January 15 each  
19 year thereafter, the commission shall submit a report to the senate  
20 committee on utilities and the house of representatives committee on  
21 energy and environment on the energy efficiency and conservation  
22 program.

23 (l) Upon request by any person, an electric distribution utility shall  
24 provide a list of all eligible state and federal funding programs available to  
25 ratepayers for energy efficiency and conservation on the electric  
26 distribution utility's website.

27 (m) (1) An electric distribution utility shall recover on a full and  
28 current basis from customers, through a reconcilable adjustment clause  
29 pursuant to K.S.A. 66-117, and amendments thereto, all reasonable and  
30 prudent costs incurred in the provision or management of a plan provided  
31 under this section. This paragraph shall apply to all electric distribution  
32 companies, including electric distribution companies subject to generation  
33 or other rate caps.

34 (2) Except as set forth in paragraph (3), decreased revenues of an  
35 electric distribution utility due to reduced energy consumption or changes  
36 in energy demand shall not be a recoverable cost under a reconcilable  
37 automatic adjustment clause.

38 (3) Decreased revenue and reduced energy consumption may be  
39 reflected in revenue and sales data used to calculate rates in a distribution-  
40 base rate proceeding filed by an electric distribution utility under K.S.A.  
41 66-117, and amendments thereto.

42 (n) This section shall not apply to any electric distribution utility with  
43 fewer than 100,000 customers.

1 New Sec. 11. On or before March 1, 2027, the commission shall  
2 establish a registry of approved persons qualified to provide conservation  
3 services to all classes of customers. The commission shall determine  
4 experience and other qualifications a conservation service provider shall  
5 meet to qualify as an approved person on the registry. The commission  
6 shall develop a registry application and may charge an application fee of  
7 \$10.

8 New Sec. 12. (a) Each electric distribution utility shall maintain the  
9 integrity of the distribution system at least in conformity to the national  
10 electric safety code and such other industry standards in a manner  
11 sufficient to provide safe and reliable service to all customers connected to  
12 the system. In performing such duties, the electric distribution utility shall  
13 implement procedures to require all electric generation suppliers to deliver  
14 energy to the electric distribution utility at locations and in amounts which  
15 are adequate to meet the energy supplier's obligations to its customers.  
16 Subject to commission approval, the electric distribution utility may  
17 require that the customer install, at the customer's expense, enhanced  
18 metering capability sufficient to match the energy delivered by the electric  
19 generation suppliers with consumption by the customer.

20 (b) There shall be a rebuttable presumption that the electric  
21 distribution utility has the ability to receive energy at all points on its  
22 system sufficient to meet the needs of all electric generation suppliers'  
23 customers on its system. The electric distribution utility shall not have an  
24 obligation to install nonstandard facilities, either as to type or location, for  
25 the purpose of receiving energy from the energy supplier, unless the  
26 energy supplier or its customer pays the full cost of such facilities. Nothing  
27 in this act shall prevent the electric distribution utility from upgrading its  
28 system to meet changing customer requirements. The commission may  
29 establish incentive programs to encourage such system upgrades. Disputes  
30 concerning facilities shall be subject to the jurisdiction of the commission  
31 and may be initiated by the filing of a complaint under K.S.A. 66-101e,  
32 and amendments thereto, by the electric generation supplier or the  
33 customer.

34 (c) (1) Subject to the right of an end-use customer to choose to  
35 receive separate bills from its electric generation supplier, the electric  
36 distribution utility may be responsible for billing customers for all electric  
37 services, consistent with the rules and regulations of the commission,  
38 regardless of the identity of the provider of such services.

39 (2) Customer bills shall contain unbundled charges sufficient to  
40 enable the customer to determine the basis for those charges.

41 (3) If services are provided by an entity other than the electric  
42 distribution utility, the entity that provides those services shall furnish to  
43 the electric distribution utility billing data sufficient to enable the electric

1 distribution utility to bill customers.

2 (4) The electric distribution utility shall not be required to forward  
3 payment to entities providing services to customers, and on whose behalf  
4 the electric distribution utility is billing those customers, before the electric  
5 distribution utility has received payment for those services from its  
6 customers.

7 (d) (1) The electric distribution utility shall continue to provide the  
8 customer service functions consistent with the rules and regulations of the  
9 commission, including meter reading, complaint resolution and  
10 collections, at the same level of quality under retail competition as it was  
11 prior to January 1, 2015.

12 (2) The commission shall establish rules and regulations to:

13 (A) Ensure that an electric distribution utility does not change a  
14 customer's electricity supplier without direct oral confirmation from the  
15 customer of record or written evidence of the customer's consent to change  
16 a supplier; and

17 (B) require each electric distribution utility, electricity supplier,  
18 marketer, aggregator and broker to provide adequate and accurate  
19 customer information to enable customers to make informed choices  
20 regarding the purchase of all electricity services offered by such provider.  
21 Such information shall be provided to retail electric customers in an  
22 understandable format that enables retail electric customers to compare  
23 prices and services on a uniform basis.

24 (3) Prior to the implementation of a restructuring plan pursuant to  
25 section 8, and amendments thereto, each electric distribution utility, in  
26 conjunction with the commission, shall implement a retail electric  
27 customer education program informing customers of the changes in the  
28 electric public utility industry. The program shall provide retail electric  
29 customers with information necessary to help them make appropriate  
30 choices as to their electric service. The education program shall be subject  
31 to approval by the commission.

32 (e) A territorial service provider's obligation to provide electric  
33 generation supply service to customers pursuant to this subsection after the  
34 expiration of a generation rate cap pursuant to section 5, and amendments  
35 thereto, or the expiration of a restructuring plan implemented pursuant to  
36 section 8, and amendments thereto, shall be revised as follows:

37 (1) While an electric distribution utility collects either a competitive  
38 transition charge or an intangible transition charge or until 100% of its  
39 customers have electric generation supplier choice, whichever is longer,  
40 the electric distribution utility shall continue to have the full obligation to  
41 serve, including the connection of customers, the delivery of electric  
42 energy and the production or acquisition of electric energy for customers.

43 (2) Following the expiration of an electric distribution utility's

1 obligation to provide electric generation supply service to retail electric  
2 customers at capped rates, the territorial service provider shall, pursuant to  
3 a commission-approved competitive procurement plan, provide electric  
4 generation supply service to a customer that:

5 (A) Contracts for electric generation supply service when the chosen  
6 electric generation supplier fails to provide the service; or

7 (B) does not choose an alternative electric generation supplier.

8 (C) The electric power acquired shall be procured through  
9 competitive procurement processes that shall include one or more of the  
10 following:

11 (i) Auctions;

12 (ii) requests for proposal; or

13 (iii) bilateral contracts entered into at the sole discretion of the  
14 territorial service provider. Prices for such agreements shall be:

15 (a) No greater than the cost of obtaining generation under comparable  
16 terms in the wholesale market, as determined by the commission at the  
17 time of execution of the contract; or

18 (b) consistent with a commission-approved competition procurement  
19 process. Any agreement between affiliated parties shall be subject to  
20 review and approval of the commission. In no case shall the cost of  
21 obtaining generation from any affiliated interest be greater than the cost of  
22 obtaining generation under comparable terms in the wholesale market at  
23 the time of execution of the contract.

24 (3) Through an evaluation of comparable types of energy, the  
25 commission shall ensure that the electric power procured pursuant to  
26 paragraph (2) shall:

27 (A) Include a prudent mix of the following:

28 (i) Spot market purchases;

29 (ii) Short-term contracts; and

30 (iii) Long-term purchase contracts, entered into as a result of an  
31 auction, request for proposal or bilateral contract that is free of undue  
32 influence, duress or favoritism, of more than four, but less than 20 years.

33 The territorial service provider shall have sole discretion to determine the  
34 source and fuel type. Long-term purchase contracts under this  
35 subparagraph may not constitute more than 25% of the territorial service  
36 provider's projected territorial service load unless, after a hearing, the  
37 commission determines for good cause that a greater portion of load is  
38 necessary to achieve least cost procurement. The provisions of this  
39 paragraph shall not apply to contracts executed pursuant to paragraph (12);  
40 and

41 (B) be designed to ensure:

42 (i) Adequate and reliable service;

43 (ii) the least cost to customers over time; and

1 (iii) compliance with the requirements of paragraph (2).

2 (4) The commission may determine that a contract is required to be  
3 extended for a longer term of up to 20 years, if the extension is necessary  
4 to ensure adequate and reliable service at a lesser cost to customers over  
5 time.

6 (5) Except as provided in paragraph (11), the provisions of this  
7 section shall apply to any type of energy purchased by a territorial service  
8 provider to provide electric generation supply service, including energy or  
9 alternative energy portfolio standards credits required to be purchased  
10 under K.S.A. 66-1258, and amendments thereto.

11 (6) The territorial service provider shall file a plan for competitive  
12 procurement with the commission and obtain approval from the  
13 commission for the plan. The commission shall consider the standards  
14 established in this section before the competitive process is implemented.  
15 The commission shall hold hearings as necessary on the proposed plan and  
16 shall issue a final order on the plan within nine months from the date the  
17 plan is filed. If the commission fails to issue a final order on the plan  
18 within nine months from the date the plan is filed, the plan shall be  
19 deemed to be approved and the territorial service provider may implement  
20 the plan as filed. Costs incurred through an approved competitive  
21 procurement plan shall be deemed to be the least cost over time.

22 (7) In determining whether to approve the plan and if the territorial  
23 service provider's plan obtains generation supply at the least cost, the  
24 commission shall consider the territorial service providers obligation to  
25 provide adequate and reliable service to customers and that the territorial  
26 service provider has obtained a prudent mix of contracts to obtain least  
27 cost on a long-term, short-term and spot market basis. In making such  
28 determination, the commission shall make the following specific findings  
29 on the plan concerning:

30 (A) Prudent steps necessary to negotiate favorable generation supply  
31 contracts;

32 (B) prudent steps necessary to obtain least cost generation supply  
33 contracts on a long-term, short-term and spot market basis; and

34 (C) whether the territorial service provider or its affiliated interest has  
35 withheld from the market any generation supply contracts on a long-term,  
36 short-term and spot market basis.

37 (8) Notwithstanding any other provision of law, the commission only  
38 may modify contracts or disallow costs after a hearing and when the party  
39 seeking recovery of the costs of a procurement plan is found to be at fault  
40 for:

41 (A) Failure to comply with the commission-approved procurement  
42 plan; or

43 (B) committing fraud, collusion or market manipulation with regard

1 to such contracts.

2 (9) The territorial service provider shall have the right to recover on a  
3 full and current basis, pursuant to K.S.A. 66-117, and amendments thereto,  
4 all reasonable costs incurred under this section and a commission-  
5 approved competitive procurement plan.

6 (10) If a customer chooses an alternative supplier and subsequently  
7 desires to return to the local distribution utility for generation service, the  
8 local distribution utility shall treat such customer exactly as it would any  
9 new applicant for energy service.

10 (11) (A) Notwithstanding paragraph (2), an electric distribution utility  
11 or commission-approved alternative supplier may offer large customers  
12 within its certificated service territory with a peak demand of 15  
13 megawatts or greater at one meter any negotiated rate for service at all of  
14 the customers' locations within the certificated service territory for any  
15 duration agreed upon by the electric distribution utility or commission-  
16 approved alternative supplier and the large customer. The commission  
17 shall allow an electric distribution utility or commission-approved  
18 alternative supplier to provide service to large customers under this  
19 paragraph. Contract rates entered into under this paragraph shall be subject  
20 to review by the commission in order to ensure that all costs related to the  
21 rates are borne by the parties to the contract and not by other customers or  
22 customer classes. Upon satisfactory review of such contract, the  
23 commission shall approve the contract within 90 days of its filing or it  
24 shall be deemed approved upon expiration of 90 days.

25 (B) For purposes of providing service under this paragraph to  
26 customers with a peak demand of 20 megawatts or greater at one meter at  
27 a location within that distribution utility's certificated service territory, an  
28 electric distribution utility that has completed its restructuring transition  
29 period as of January 1, 2015, may, in its sole discretion, acquire an interest  
30 in a generation facility or construct a generation facility specifically to  
31 meet the energy requirements of the customers, including the electric  
32 requirements of the customers' other billing locations within its certificated  
33 service territory. The electric distribution utility shall commence  
34 construction of the generation facility or contract to acquire the generation  
35 interest within three years after January 1, 2015, except that the electric  
36 distribution utility may add to the generation facilities it commenced  
37 construction or contracted to acquire after this three-year period in order to  
38 serve the additional load of customers for whom it commenced  
39 construction or contracted to acquire generation interest within three years.  
40 Nothing in this paragraph requires or authorizes the commission to require  
41 an electric distribution utility to commence construction or acquire an  
42 interest in a generation facility. The electric distribution utility's interest in  
43 the generation facility it built or contracted to acquire shall be no larger

1 than necessary to meet peak demand of customers served under this  
2 paragraph. During times when the customer's demand is less than the  
3 electric distribution utility's generation interest, the electric distribution  
4 utility may sell excess power on the wholesale market. At no time shall the  
5 costs associated with the generating facility interests be included in the  
6 rate base or otherwise reflected in rates. The generation facility interests  
7 shall not be commission-regulated assets.

8 (12) A territorial service plan approved by the commission prior to  
9 November 15, 2026, shall remain in effect through its approved term. The  
10 territorial service provider may submit amendments to an approved plan  
11 that are consistent with this section to the commission for a determination  
12 to be made within nine months of the date that the amendments are filed  
13 with the commission. If the commission fails to issue a final order within  
14 nine months, the amendments shall be deemed approved and the territorial  
15 service provider may implement the amendments as filed.

16 (13) The territorial service provider shall offer residential and small  
17 business customers a generation supply service rate that shall change no  
18 more frequently than on a quarterly basis. All territorial service rates shall  
19 be reviewed by the commission to ensure that the costs of providing  
20 service to each customer class are not subsidized by any other class.

21 New Sec. 13. (a) On or before November 15, 2028, electric  
22 distribution companies shall file a smart meter technology procurement  
23 and installation plan with the commission for approval. The plan shall  
24 describe the smart meter technologies the electric distribution utility  
25 proposes to install pursuant to this section.

26 (b) Electric distribution companies shall furnish smart meter  
27 technology:

28 (1) Upon request from a customer that agrees to pay the cost of the  
29 smart meter at the time of the request;

30 (2) in new building construction; and

31 (3) in accordance with a depreciation schedule not to exceed 15 years.

32 (c) Upon receipt of customer consent, an electric distribution utility  
33 shall make direct meter access and electronic access available to customer  
34 meter data to third parties, including electric generation suppliers and  
35 providers of conservation and load management services.

36 (d) Under no circumstances shall lost or decreased revenues by an  
37 electric distribution utility due to reduced electricity consumption or  
38 shifting energy demand be considered:

39 (1) A cost of smart meter technology recoverable under a reconcilable  
40 automatic adjustment clause under new cost adjustment statute, except that  
41 decreased revenues and reduced energy consumption may be reflected in a  
42 distribution rate base proceeding filed pursuant to K.S.A. 66-117, and  
43 amendments thereto; or

1 (2) a recoverable cost.

2 (e) A territorial service provider shall submit to the commission one  
3 or more proposed time-of-use rates and real-time price plans before the  
4 earlier of January 1, 2020, or the end of the applicable generation rate cap  
5 period. The commission shall approve or modify the time-of-use rates and  
6 real-time price plan within six months of submission. The territorial  
7 service provider shall offer the time-of-use rates and real-time price plan to  
8 all customers that have been provided with smart meter technology  
9 pursuant to this section.

10 (f) An electric distribution utility may recover reasonable and prudent  
11 costs of providing smart meter technology as determined by the  
12 commission. Such recovery may include annual depreciation and capital  
13 costs over the life of the smart meter technology and the cost of any  
14 system upgrades that the electric distribution utility may require to enable  
15 the use of the smart meter technology which are incurred after November  
16 15, 2026, less operating and capital cost savings realized by the electric  
17 distribution utility from the installation and use of the smart meter  
18 technology. Smart meter technology shall be deemed to be a new service  
19 offered for the first time under section 5, and amendments thereto. An  
20 electric distribution utility may recover smart meter technology costs:

21 (1) Through base rates, including a deferral for future base rate  
22 recovery of current basis with carrying charge as determined by the  
23 commission; or

24 (2) on a full and current basis through a reconcilable automatic  
25 adjustment clause under K.S.A. 66-117, and amendments thereto.

26 (g) The provisions of this section shall not apply to an electric  
27 distribution utility with 100,000 or fewer customers.

28 New Sec. 14. (a) Every customer accessing the transmission or  
29 distribution network shall pay a competitive transition charge to the  
30 electric distribution utility in whose certificated service territory that  
31 customer is located to provide the utility with an opportunity to recover its  
32 transition or stranded costs. The costs to be recovered shall be allocated to  
33 customer classes in a manner that does not shift costs and maintains  
34 consistency with the allocation methodology for a utility production plan  
35 accepted by the commission in the electric public utility's most recent base  
36 rate proceeding. If a customer operates parallel generation pursuant to  
37 K.S.A. 66-1,184, and amendments thereto, the customer's fully allocated  
38 share of transition or stranded costs shall be recovered from the customer  
39 through a competitive transition charge. The recovery of transition or  
40 stranded costs associated with existing generating facilities shall be  
41 contingent on the continued operation of the generation facilities for which  
42 recovery has been approved, except when the generation facility is  
43 uneconomic on a production cost basis because of the transition to a

1 competitive market.

2 (b) The competitive transition charge shall be included on bills to  
3 customers for a period determined by the commission, but that shall not  
4 exceed the period from January 1, 2015, through December 31, 2023. In  
5 establishing the length of the period of collection of the competitive  
6 transition charge, the commission shall consider the effect on the ability of  
7 the state to compete in attracting industry and jobs on the financial health  
8 of electric utilities and other relevant factors. The commission may order  
9 an extended period transition charge beyond December 31, 2023, for good  
10 cause.

11 (c) In determining the level of transition or stranded costs that an  
12 electric public utility may recover through the competitive transition  
13 charge, the commission shall:

14 (1) Allow recovery of:

15 (A) Regulatory assets and other deferred charges recoverable under  
16 regulatory practices in effect before January 1, 2015;

17 (B) the unfunded portion of the utility's projected nuclear generating  
18 facility decommissioning costs; and

19 (C) cost obligations under contracts with nonutility generating  
20 projects that have received a commission order.

21 (2) allow recovery of an electric public utility's prudently incurred  
22 costs related to the cancelation, buy down, buy out or renegotiation of  
23 nonutility generating projects consistent with K.S.A. 66-1,184 and K.S.A.  
24 66-1263 et seq., and amendments thereto, and all rules and regulations  
25 adopted pursuant to those acts;

26 (3) determine the level of other generation-related transition or  
27 stranded costs that may be recovered through the competitive transition  
28 charge;

29 (4) consider the extent to which the electric public utility has  
30 undertaken efforts to mitigate generation-related transition or stranded  
31 costs by appropriate means in a manner that is reasonable under all of the  
32 circumstances, including whether mitigation has been commensurate with  
33 the magnitude of the electric public utility's generation-related transition or  
34 stranded costs. During the transition period, electric utilities shall have the  
35 duty to mitigate generation-related transition or stranded costs to the extent  
36 practicable. Mitigation efforts may include:

37 (A) Acceleration of depreciation and amortization of existing rate  
38 base generation assets;

39 (B) minimization of new capital spending for existing rate base  
40 generation assets;

41 (C) Reallocation of depreciation reserves to existing rate base  
42 generation assets;

43 (D) reduction of book assets by application of new proceeds of any

1 sale of idle or underutilized existing rate base generation assets;

2 (E) maximization of market revenues from existing rate base  
3 generation assets; and

4 (F) issuance of securitized debt pursuant to the provisions of section  
5 17, and amendments thereto; and

6 (5) consider any efforts taken prior to January 1, 2015, to reduce or  
7 moderate customer rate levels while maintaining safe and efficient  
8 operations.

9 (d) Nothing in this act shall be construed as requiring an electric  
10 public utility or nonutility generating project to enter into an arrangement  
11 to buy down, buy out and terminate or otherwise restructure a contract or  
12 as authorizing the commission to require a utility to pursue such an  
13 arrangement with a nonutility generating project.

14 (e) As a component of its restructuring plan, each electric public  
15 utility shall file with the commission a recovery plan including a proposed  
16 competitive transition charge and supporting documentation. In evaluating  
17 a recovery plan and any proposed competitive transition charge, the  
18 commission shall schedule open evidentiary hearings with proper notice  
19 and opportunity for all parties to cross-examine witnesses as necessary.

20 (f) On and after January 1, 2015, an electric public utility may apply  
21 to the commission for a qualified rate order pursuant to section 17, and  
22 amendments thereto, for some or all of its transition or stranded costs. The  
23 commission shall schedule hearings as necessary to evaluate an electric  
24 public utility's application for a qualified rate order and if transition bonds  
25 approved by any order are successfully issued, then:

26 (1) The utility shall impose and collect through its customer bills the  
27 intangible transition charges approved by such qualified rate order; and

28 (2) either the electric public utility's rates for electric service or the  
29 utility's competitive transition charges simultaneously shall be reduced by  
30 an amount equal to the revenue requirement of the transition or stranded  
31 costs for which transition bonds have been successfully issued.

32 (g) The commission shall establish procedures for an annual review  
33 of the competitive transition charge. The review shall reconcile the annual  
34 revenues received from the charge with the annual amortization of  
35 transition or stranded costs approved by the commission under this section.  
36 The commission shall adjust the competitive transition charge based on  
37 under-recovery or over-recovery of the annual amortization amount.

38 New Sec. 15. (a) No person or entity shall engage in the business of  
39 an electric generation supplier in this state unless the person or entity holds  
40 a certificate of public convenience and necessity issued by the commission  
41 pursuant to K.S.A. 66-131, and amendments thereto. In reviewing any  
42 such application for a certificate, the commission shall deny any  
43 application that does not conform with this act. This licensing requirement

1 shall include municipal corporations which choose to provide service  
2 outside their municipal limits, except to the extent provided prior to  
3 January 1, 2015.

4 (b) (1) To ensure the safety and reliability of the generation of  
5 electricity in this state, no certificate of public convenience and necessity  
6 shall be issued or remain in force for any energy supplier unless the  
7 holder:

8 (A) Furnishes a bond or other security approved by the commission  
9 in a form and amount to ensure the financial responsibility of the electric  
10 generation supplier and the supply of electricity at retail in accordance  
11 with contracts, agreements or arrangements;

12 (B) certifies to the commission that it will pay and in subsequent  
13 years has paid the full amount of taxes imposed by chapter 79 of the  
14 Kansas Statutes Annotated, and amendments thereto, and any tax imposed  
15 by this act;

16 (C) provides the commission with the address of the participant's  
17 principal office in this state or the address of the participant's registered  
18 agent in this state; and

19 (D) agrees that it shall be subject to all taxes imposed by chapter 79  
20 of the Kansas Statutes Annotated, and amendments thereto, and any tax  
21 imposed by this act;

22 (2) Failure of an electricity supplier to pay a tax referred to in this  
23 section or to otherwise comply with the provisions of this paragraph shall  
24 be cause for the commission to revoke the certificate of public  
25 convenience and necessity of the electricity supplier; and

26 (3) If an electricity supplier other than an electric distribution utility  
27 does not pay any tax imposed by chapter 79 of the Kansas Statutes  
28 Annotated, and amendments thereto, or this act, the electric distribution  
29 utility to whose retail electric customer the electricity supplier provided  
30 generation service shall remit the unpaid tax, as a tax on the use of  
31 electricity in this state, to the department of revenue and may collect or  
32 seek reimbursement of the tax so paid from the electricity supplier or any  
33 other appropriate party that used the electricity in this state.

34 (c) No certificate issued under this act may be transferred without  
35 prior approval from the commission.

36 (d) The commission may refrain from applying the requirements of  
37 this section which it determines to be unnecessary due to competition  
38 among electric generation suppliers. In regulating the service of electric  
39 generation suppliers, the commission shall impose requirements necessary  
40 to ensure that the present quality of service provided by electric utilities  
41 does not deteriorate, including assuring that adequate reserve margins of  
42 electric supply are maintained.

43 (e) Prior to approving the licensure of any broker and marker or

1 aggregator, the commission shall set forth standards to ensure that all retail  
2 electric customer classes may choose to purchase electricity through a  
3 broker and marketer or aggregator.

4 New Sec. 16. (a) The commission shall monitor the market for the  
5 supply and distribution of electricity to retail electric customers and take  
6 steps as provided for in this section to prevent anticompetitive or  
7 discriminatory conduct and the unlawful exercise of market power.

8 (b) Upon complaint or upon its own motion for good cause shown,  
9 the commission shall conduct an investigation of the impact on the proper  
10 functioning of a fully competitive retail electricity market, including the  
11 effect of mergers, consolidations, acquisition or disposition of assets or  
12 securities of electricity suppliers, transmission congestion and  
13 anticompetitive or discriminatory conduct affecting the retail distribution  
14 of electricity.

15 (c) (1) The commission may require an electricity supplier to provide  
16 information, including documents and testimony, in accordance with the  
17 commission's rules and regulations regarding the discovery of information  
18 from any electricity supplier.

19 (2) Confidential, proprietary or trade secret information provided  
20 under this subsection shall be treated as proprietary records which will be  
21 withheld from the public upon request of the party submitting such  
22 records.

23 (3) Notwithstanding the prohibition on disclosure of information in  
24 paragraph (2), the commission shall disclose information obtained under  
25 this subsection to the attorney general under an appropriate confidentiality  
26 agreement. The commission may disclose information to appropriate  
27 federal or state law enforcement officials if it determines that the  
28 disclosure of the information is necessary to prevent or restrain a violation  
29 of federal or state law and it provides the party who provided such  
30 information with reasonable notice and opportunity to prevent or limit  
31 disclosure.

32 (d) If, as a result of an investigation conducted under this section, the  
33 commission has reason to believe that anticompetitive or discriminatory  
34 conduct, including the unlawful exercise of market power, is preventing  
35 the retail electricity customers in this state from obtaining the benefits of a  
36 properly functioning workable competitive retail electricity market, the  
37 commission shall:

38 (1) Refer its findings to the attorney general, the United States  
39 department of justice, the securities and exchange commission or the  
40 federal energy regulatory commission;

41 (2) subject to subsection (c)(3), disclose any information it has  
42 obtained in the course of its investigation to the agency or agencies to  
43 which it has made a referral pursuant to paragraph (1); and

1 (3) intervene, as provided and permitted by law or regulation, in any  
2 proceeding initiated as a result of a referral made pursuant to paragraph  
3 (1).

4 (e) Upon request for approval of mergers or consolidations by electric  
5 utilities or electricity suppliers, or the acquisition or disposition of assets  
6 or securities of other public utilities or electricity suppliers, the  
7 commission shall provide notice and an opportunity for a hearing. In  
8 considering the application, the commission shall consider whether the  
9 proposed merger, consolidation, acquisition or disposition is likely to  
10 result in anticompetitive or discriminatory conduct, including the unlawful  
11 exercise of market power, which will prevent retail electricity customers in  
12 this state from obtaining the benefits of a properly functioning and  
13 workable competitive retail electricity market. If the commission finds that  
14 a proposed application is likely to result in anticompetitive or  
15 discriminatory conduct, the commission shall not approve such proposed  
16 merger, consolidation, acquisition or disposition, except upon terms and  
17 conditions as it finds necessary to preserve the benefits of a properly  
18 functioning and workable competitive retail electricity market.

19 (f) (1) If an electric distribution utility or any of its affiliated  
20 companies or any company that an electric distribution utility has  
21 purchased generation from is found guilty of market manipulation,  
22 exercising market power or collusion by the federal energy regulatory  
23 commission or any federal or state court, or if an electric distribution  
24 utility or any one of its affiliated companies or any company that an  
25 electric distribution utility has purchased generation from settles a claim of  
26 market manipulation, exercising market power or collusion that is brought  
27 by a regional transmission operator's market monitoring unit, the federal  
28 energy regulatory commission or another entity, the commission:

29 (A) (1) Shall direct the electric distribution utility to take any and all  
30 reasonable action to quantify the effect of the market misconduct on  
31 Kansas ratepayers; and

32 (B) following public hearing on the matter and a finding of public  
33 interest, may direct the electric distribution utility to take any and all  
34 reasonable legal action, including filing of a lawsuit as may be necessary,  
35 to recover the quantified damages which shall be used to recompense  
36 Kansas ratepayers affected by the market misconduct.

37 (2) If the electric distribution utility fails to pursue reasonable action  
38 to quantify or to seek recovery of damages for Kansas ratepayers affected  
39 by market manipulation, the exercise of market power or collusion, the  
40 commission is authorized to assess a civil penalty, which shall not be  
41 recovered in rates, of not more than \$10,000 per day for failure or neglect  
42 to obey an order of the commission, the continuance of the failure or  
43 neglect being a separate offense. Any utility that is assessed a civil penalty

1 under this paragraph shall be provided with notice and an opportunity to  
2 contest such penalty.

3 (3) Any monetary damages recovered by the electric distribution  
4 utility shall be paid to affected Kansas ratepayers in the form of a credit on  
5 their electric bills or as refunds.

6 (4) The provisions of this subsection shall be held in addition to and  
7 not in substitution for or limitation of any other provision of this act.

8 (g) Nothing in this section shall restrict the right of any party to  
9 pursue any other available remedy.

10 New Sec. 17. (a) (1) Notwithstanding any other provision of law, the  
11 commission is authorized to issue qualified rate orders in accordance with  
12 the provisions of this section to facilitate the recovery or financing of  
13 qualified transition expenses of an electric public utility or assignee.

14 (2) A qualified rate order may be adopted by the commission only  
15 upon the application of an electric public utility and shall become effective  
16 in accordance with its terms. After the issuance of a qualified rate order,  
17 the electric public utility retains sole discretion regarding whether to  
18 assign, sell or otherwise transfer intangible transition property or to cause  
19 the transition bonds to be issued, including the right to defer or postpone  
20 such assignment, sale, transfer or issuance.

21 (3) On and after January 1, 2015, an electric public utility may, at any  
22 time, file an application for a qualified rate order pursuant to the following  
23 procedures:

24 (A) Each application for a qualified rate order shall contain a  
25 complete accounting of the utility's transition or stranded costs, detailed  
26 information regarding the utility's proposal for the sale of intangible  
27 transition property or the issuance of transition bonds and information  
28 regarding the electric public utility's planned use of the proceeds of the  
29 sale or issuance. After the utility has filed its restructuring plan pursuant to  
30 section 8, and amendments thereto, the utility may incorporate by  
31 reference the information in the restructuring plan in providing the  
32 information.

33 (B) If an electric public utility requests expedited review under  
34 subsection (b), it shall designate in its application the portion of its total  
35 claimed transition or stranded costs for which it requests such expedited  
36 review.

37 (C) After notice and an opportunity to be heard, the commission may  
38 issue a final qualified rate order for all or a portion of the amount of  
39 transition or stranded costs that it finds would be just and reasonable for  
40 the utility to recover from ratepayers pursuant to sections 4 and 14, and  
41 amendments thereto. The commission shall issue a final qualified rate  
42 order only for the amounts for which it finds such issuance to be in the  
43 public interest. The commission shall complete its review of the

1 application and issue its final order within either nine months from the  
2 filing, unless the electric public utility requests expedited treatment under  
3 subsection (b), or 15 days following the filing of the electric public utility's  
4 restructuring plan pursuant to section 8, and amendments thereto.

5 (b) (1) The commission shall provide for expedited review of  
6 applications for qualified rate orders upon request of the electric public  
7 utility. An expedited review shall follow the following procedures:

8 (A) If the utility elects to file an application prior to the filing of its  
9 restructuring plan and requests expedited review, the commission, after  
10 notice and an opportunity to be heard, may issue a final qualified rate  
11 order approving the issuance of transition bonds for a portion of the  
12 utility's transition or stranded costs that the commission finds would be  
13 just and reasonable to recover from rate payers under sections 4 and 14,  
14 and amendments thereto. The commission shall consider only the portion  
15 of the transition or stranded costs for which the utility requests approval to  
16 issue transition bonds. Consideration of all remaining amounts and  
17 amounts not resolved by the commission shall be deferred for  
18 consideration in the electric public utility's restructuring plan proceeding  
19 pursuant to section 8, and amendments thereto. The commission shall  
20 complete its review of the application and issue its final determination  
21 within 120 days after the request for expedited review, but in no event  
22 earlier than 15 days after the utility has filed its restructuring plan pursuant  
23 to section 8, and amendments thereto.

24 (B) If the electric public utility files an application for a qualified rate  
25 order concurrently with its restructuring plan or during the course of the  
26 restructuring plan proceeding, the electric public utility may request, and  
27 the commission may allow, an accelerated determination of the  
28 application. After notice and an opportunity to be heard, the commission  
29 may issue a final qualified rate order approving the issuance of transition  
30 bonds for a portion of the utility's transition or stranded costs that the  
31 commission finds would be just and reasonable to recover from the rate  
32 payers pursuant to sections 4 and 14, and amendments thereto. The  
33 commission shall consider only the portion of the utility's transition or  
34 stranded costs for which the utility seeks expedited review. Consideration  
35 of all remaining amounts and amounts not resolved by the commission  
36 shall be deferred for consideration in a final order regarding the utility's  
37 restructuring plan pursuant to section 8, and amendments thereto. The  
38 commission shall complete its review within 120 days after the request for  
39 expedited review.

40 (C) If the electric public utility files an application for a qualified rate  
41 order after the commission enters a final order regarding the utility's  
42 restructuring plan, and requests expedited treatment, the commission shall  
43 complete its review and issue a final determination within 120 days of the

1 request for expedited review.

2 (2) The qualified rate order shall require that the proceeds from the  
3 assignment, sale or transfer or other financing of intangible transition  
4 property shall be used principally to reduce the electric public utility's  
5 transition or stranded costs and to reduce the related capitalization,  
6 pursuant to a plan submitted by the electric public utility in its application  
7 for a qualified rate order and approved by the commission.

8 (3) Notwithstanding any other provision of law, the commission has  
9 the power to specify that all or a portion of a qualified rate order shall be  
10 irrevocable. To the extent so specified, neither the order nor the intangible  
11 transition charges authorized to be imposed and collected under the order  
12 shall be subject to reduction, postponement, impairment or termination by  
13 any subsequent action of the commission. Nothing in this paragraph is  
14 intended to supersede the right of any party to judicial review of the  
15 qualified rate order.

16 (4) The commission shall provide in any qualified rate order for a  
17 procedure for the expeditious approval by the commission of periodic  
18 adjustments to the intangible transition charges that are the subject of the  
19 pertinent qualified rate order. Such adjustments shall ensure the recovery  
20 of revenues sufficient to provide for the payment of principal, interest,  
21 acquisition or redemption premium and for other fees, costs and charges in  
22 respect of transition bonds approved by the commission as part of or in  
23 conjunction with a qualified rate order. The commission shall determine  
24 whether the adjustments are required on each anniversary of the issuance  
25 of the qualified rate order and at the additional intervals as may be  
26 provided for in the qualified rate order. Any adjustments that are required  
27 shall be approved within 90 days of each anniversary of the issuance of the  
28 qualified rate order or of each additional interval provided for in the  
29 qualified rate order.

30 (5) Notwithstanding any other provision of law, on such conditions as  
31 the commission may approve, all or portions of the interest of an electric  
32 public utility in intangible transition property may be assigned, sold or  
33 transferred to an assignee and may be pledged or assigned as security by  
34 an electric public utility or assignee to or for the benefit of a financing  
35 party. To the extent that an interest is assigned, sold or transferred or is  
36 pledged or assigned as security, the commission shall authorize the electric  
37 public utility to contract with the assignee or financing party that the  
38 electric public utility will continue to operate its system to provide service  
39 to its customers, will impose and collect the applicable intangible  
40 transition charges for the benefit and account of the assignee or financing  
41 party and will account for and remit the applicable intangible transition  
42 charge to or for the account of the assignee or financing party. If the  
43 qualified rate order so provides, the obligations of the electric public utility

1 shall be:

2 (A) Binding upon the electric public utility, its successors and  
3 assigns; and

4 (B) undertaken and performed by the electric public utility and any  
5 other entity which provides electric service to a person that was a customer  
6 of an electric public utility located within the certificated service territory  
7 of the electric public utility on January 1, 2015, and is still located within  
8 such territory, as a condition to the provision of service to such customer  
9 by such electric public utility or other entity, unless the customer has paid  
10 a termination charge in the manner and on the basis specified in the  
11 qualified rate order.

12 (6) The irrevocable status of any portion of a qualified rate order  
13 pursuant to paragraph (3) shall lapse and terminate to the extent that an  
14 assignment, sale or transfer of the intangible transition property resulting  
15 from the rate order or the issuance of the related transition bonds is not  
16 effected within the period specified in the qualified rate order.

17 (7) The effect of any subsequent refinancing of transition bonds upon  
18 the rates authorized in a qualified rate order shall be as provided in such  
19 order.

20 (8) In the qualified rate order, the commission shall afford flexibility  
21 in establishing the terms and conditions of the transition bonds, including  
22 repayment schedules, interest rates and other financing costs. The electric  
23 public utility shall file the final terms of issuance with the commission.

24 (c) (1) Any assignable right that an electric public utility has in the  
25 intangible transition property prior to its sale or transfer or any other right  
26 created pursuant to this section or created in the qualified rate order shall  
27 be only a contract right.

28 (2) The state pledges to and agrees with the holders of any transition  
29 bonds issued pursuant to this section and with any assignee or financing  
30 party who may enter into contracts with an electric public utility pursuant  
31 to this section that the state will not limit or alter or in any way impair or  
32 reduce the value of intangible transition property or intangible transition  
33 charges approved by a qualified rate order until the transition bonds and  
34 interest on the transition bonds are fully paid and discharged or the  
35 contracts are fully performed on the part of the electric public utility.  
36 Subject to other requirements of law, nothing in this paragraph shall  
37 preclude limitation or alteration if adequate compensation is made by law  
38 for the full protection of the intangible transition charges collected  
39 pursuant to a qualified rate order and of the holder of this transition bond  
40 and any assignee or financing party entering into contract with the electric  
41 public utility.

42 (d) (1) No intangible transition property, right, title or interest of a  
43 utility or assignee described in the definition of intangible transition

1 property, whether before or after the issuance of the qualified rate order,  
2 shall constitute an account or general intangibles and no such right, title or  
3 interest pertaining to a qualified rate order, including the associated  
4 intangible transition property and any revenues, collections, claims,  
5 payments, money or proceeds of or arising from intangible transition  
6 charges pursuant to such order, shall be deemed proceeds of any right or  
7 interest other than in the order and the intangible transition property  
8 arising from the order.

9 (2) Notwithstanding any other provision of law, the granting,  
10 perfection and enforcement of security interests in intangible transition  
11 property to secure transition titles is governed by this section.

12 (3) The commission shall establish rules and regulations for a  
13 separate filing to attach and perfect a valid and enforceable security  
14 interest in intangible transition property. For such purpose:

15 (A) If the transition bonds are issued to finance any qualified  
16 transition expenses, as specified in the applicable qualified rate order, the  
17 lien of the bonds shall attach automatically to the intangible transition  
18 property relating to the expenses from the time of issuance of the bonds;

19 (B) the lien described in subsection (d)(3)(A), shall be deemed a valid  
20 and enforceable security interest in the intangible transition property  
21 securing the qualified transition bonds and shall be continuously perfected  
22 if, before the date of issuance specified in (d)(3)(A) or within no more than  
23 10 days after the date, a filing has been made by or on behalf of the  
24 financing party to protect that security interest in accordance with the  
25 procedures prescribed by the commission pursuant to this section. Any  
26 filing in respect to such transition bonds shall take precedence over any  
27 other filing;

28 (C) the lien described in subsection (d)(3)(A) is enforceable against  
29 the assignee and all third parties, including judicial lien creditors, subject  
30 only to the rights of any third parties holding security interests in the  
31 intangible transition property previously perfected in the manner described  
32 in this subsection if value has been given by the purchasers of transition  
33 bonds. A perfected lien in intangible transition property is a continuously  
34 perfected security interest in all revenues and proceeds arising with respect  
35 to the associated intangible transition property, whether or not revenues  
36 have been accrued. The lien created in this subsection is perfected and  
37 ranks prior to any other lien, including any judicial lien, which  
38 subsequently attaches to the intangible transition property, to the intangible  
39 transition charges and to the qualified rate order and any rights created by  
40 the order or any proceeds of the order. The relative priority of a lien  
41 created in this subsection is not defeated or adversely affected by changes  
42 to the qualified rate order or to the intangible transition charges payable by  
43 any customer or by the commingling of revenues arising with respect to

1 intangible transition property with funds of the electric public utility or  
2 other funds of the assignee; and

3 (D) if a default occurs under approved transition bonds, the holders of  
4 transition bonds or their authorized representatives, as secured parties, may  
5 foreclose or otherwise enforce the lien in the intangible transition property  
6 securing the transition bonds, subject to the rights of any third parties  
7 holding prior security interests in the intangible transition property  
8 perfected in the manner provided in this subsection. Without limiting other  
9 remedies, the commission shall order the sequestration and payment to the  
10 holders or their representatives of revenues arising with respect to the  
11 intangible transition property pledged to the holders upon application by  
12 the holders or their representatives. An order pursuant to this paragraph  
13 shall remain in full force and effect notwithstanding any bankruptcy,  
14 reorganization or other insolvency proceedings with respect to the electric  
15 public utility or assignee.

16 (4) The commission shall establish and maintain a separate system of  
17 records to reflect the date and time of receipt of all filings made pursuant  
18 to this subsection and may provide that transfers of intangible transition  
19 property to an assignee be filed in accordance with the same system.

20 (e) (1) A transfer of intangible transition property, which the parties  
21 have expressly stated in the governing documentation to be a sale or other  
22 absolute transfer in a transaction approved in a qualified rate order, by an  
23 electric public utility to an assignee shall be treated as an absolute transfer  
24 and true sale of all of the transferor's right, title and interest and not as a  
25 pledge or other financing of the intangible transition property other than  
26 for federal and state income and franchise tax purposes. Granting a  
27 preferred right to the intangible transition property to holders of transition  
28 bonds or the provision of any credit enhancement with respect to transition  
29 bonds by the electric public utility shall not impair or negate the  
30 characterization of any transfer as a true sale other than for federal and  
31 state income and franchise tax purposes.

32 (2) A transfer of intangible transition property shall be deemed  
33 perfected as against third persons, including any judicial lien creditors,  
34 when:

35 (A) The commission has issued the qualified rate order creating  
36 intangible transition property; and

37 (B) a sale or transfer of the intangible transition property has been  
38 executed and delivered in writing to the assignee.

39 (f) (1) Nothing in this act shall entitle any person to bring an action  
40 against a retail electric customer for nonpayment of intangible transition  
41 charges other than the electric public utility, its successor or any other  
42 entity which provides electric service to a person that was a customer of an  
43 electric public utility located within the certificated service territory of the

1 electric public utility on the effective date of this act or that became a  
2 customer of electric services within such territory after the effective date  
3 of this act and is still located within such territory.

4 (2) The commission has exclusive jurisdiction over any dispute  
5 arising out of the obligations to impose and collect intangible transition  
6 charges of an electric public utility, its successor or any other entity which  
7 provides electric service to a person that was a customer of an electric  
8 public utility located within the certificated service territory of the electric  
9 public utility on January 1, 2015, or that became a customer of electric  
10 services within such territory on and after January 1, 2015, and is still  
11 located within such territory.

12 New Sec. 18. Except as provided under K.S.A. 66-1258, and  
13 amendments thereto, the commission may not order a territorial service  
14 provider to procure power from a specific generation supplier, generation  
15 fuel type or only new generation.

16 New Sec. 19. The provisions of sections 1 through 18, and  
17 amendments thereto, shall not apply to electric cooperative corporations or  
18 to the laws relating to electric cooperative corporations.

19 New Sec. 20. (a) (1) A cooperative shall provide open and  
20 nondiscriminatory access and allow other electric generation suppliers that  
21 have been certificated by the commission or jurisdictional public utilities  
22 to utilize the cooperative's facilities to make sales to end-use customers it  
23 serves. Except as provided in section 21, and amendments thereto, a  
24 person that, on or after January 1, 2015, receives retail electric service at  
25 an electric-consuming facility from an electric cooperative operating in the  
26 state or owns or occupies an electric-consuming facility within the  
27 certificated service territory of a cooperative shall have the right to  
28 purchase and receive electric generation from another source at the  
29 conclusion of a four-year transition and phase-in period beginning on  
30 January 1, 2015, and ending on January 1, 2019.

31 (2) The following schedule for phased implementation of retail access  
32 shall be adhered to unless a determination is made by the commission  
33 under subsection (b):

34 (A) As of January 1, 2018, a maximum of 33% of the peak load of  
35 each customer class shall have the opportunity for direct access;

36 (B) as of January 1, 2019, a maximum of 66% of the peak load of  
37 each customer class shall have the opportunity for direct access; and

38 (C) as of January 1, 2020, all customers of cooperatives in this state  
39 shall have the opportunity for direct access.

40 (b) (1) The commission may extend the transition and phase-in period  
41 for its jurisdictional electric utilities pursuant to section 7, and  
42 amendments thereto. If the commission does allow for such extension, the  
43 transition and phase-in period for cooperatives shall be substantially

1 similar to that established by the commission for direct access to the  
2 competitive electric generation market by customers of electric utilities.

3 (2) If the commission establishes a phase-in period which is not  
4 uniform among electric utilities, then the phase-in period for persons in the  
5 service territories of cooperatives may be as long as that of the longest  
6 phase-in period permitted by the commission.

7 (3) No cooperative shall utilize the transmission or distribution  
8 system of an electric public utility regulated by the commission for the  
9 purpose of providing electric generation service until the cooperative  
10 begins its phase-in period. No electric public utility regulated by the  
11 commission shall utilize the transmission or distribution system of an  
12 electric cooperative corporation until the electric public utility begins its  
13 phase-in period, not including any pilot programs.

14 (c) Cooperatives may develop retail pilot programs for their own  
15 service territories.

16 (d) Customer bills issued by a cooperative shall contain unbundled  
17 charges sufficient to enable the customer to determine the generation  
18 component of and basis for such charges. Electric generation shall be  
19 delivered to the departing member by the cooperative, which has the  
20 exclusive right to provide retail service in such area pursuant to section 3,  
21 and amendments thereto, at nondiscriminatory prices, terms and conditions  
22 determined by the cooperative.

23 (e) (1) Any cooperative that borrows from the rural utilities service of  
24 the United States department of agriculture shall maintain the integrity and  
25 safety of its distribution system in a manner to provide service to all  
26 customers connected to such system consistent with standards established  
27 by the rural utilities service.

28 (2) Any cooperative that does not borrow from the rural utilities  
29 service of the United States department of agriculture shall maintain the  
30 integrity and safety of its distribution system in a manner to provide  
31 service to all customers connected to such system consistent with  
32 standards of the national electric safety code.

33 (f) Unless waived by the cooperative, the right to take generation  
34 service from another source and the duty of a cooperative to deliver  
35 service shall be expressly subject to and contingent upon the full advance  
36 satisfaction by a departing member to:

37 (1) Provide written notice of intent to receive generation service from  
38 another source to the cooperative;

39 (2) provide written evidence to the cooperative reasonably  
40 satisfactory, as determined by the cooperative, that the departing member  
41 has acquired all necessary transmission services and related ancillary  
42 services as may be necessary to transmit the generation service from the  
43 alternative electric supplier to the distribution system of the cooperative;

1 (3) have made all payments for electric service or other services or  
2 products rendered to date by the cooperative and shall not otherwise be in  
3 violation or default of any membership requirement, rule or regulation of  
4 the cooperative; and

5 (4) make full payment of a transition surcharge to each cooperative  
6 which provides distribution, transmission or generation service, directly or  
7 indirectly, to the departing member or associated electric consuming  
8 facility. During the conduct of a pilot program, the cooperative may  
9 choose not to apply the transition surcharge to departing members. The  
10 duty to pay a transition surcharge by a departing member and the right of a  
11 cooperative to collect a transition surcharge shall not apply to departing  
12 members who become new members of a cooperative following the  
13 expiration of the phase-in pursuant to this section.

14 New Sec. 21. Notwithstanding the provisions of section 22, and  
15 amendments thereto, any written agreement for electric service that is  
16 signed by a cooperative and any person prior to January 1, 2015, shall  
17 remain in force until the expiration of the term of the agreement or  
18 otherwise pursuant to the terms and conditions of the agreement. Any  
19 person party to such a contract shall have no legal right to receive  
20 generation service from another source until after the expiration of such  
21 contract.

22 New Sec. 22. (a) (1) Cooperative corporations may provide  
23 generation electric service to any person and at any location within the  
24 state. If a cooperative provides generation electric service at retail to a  
25 person located outside of its certificated service territory and within the  
26 franchised territory of an electric public utility, it shall first have been  
27 certified to the commission pursuant to subsection (e) and, unless it is  
28 otherwise exempt under subsection (d).

29 (2) The cooperative shall comply with all relevant terms, conditions  
30 and obligations applicable to electric generation suppliers pursuant to this  
31 act. Cooperatives shall not be subject to any additional jurisdiction by the  
32 commission pursuant to K.S.A. 66-104b, and amendments thereto. To the  
33 extent such services are not provided for resale to others, such persons  
34 shall be members of the cooperative.

35 (3) It shall not be necessary for a cooperative to amend its bylaws to  
36 permit it to provide service to any person at any location within the state.

37 (b) If a cooperative provides generation service pursuant to  
38 subsection (a) to a person not located within its exclusive retail electric  
39 certificated service territory and, consistent with any then-existing contract  
40 rights of the cooperative, such person subsequently desires to receive  
41 generation service from another source, the departing member shall have  
42 the right to do so, contingent upon the full advance satisfaction of the  
43 following conditions:

1 (1) The departing member shall give written notice of intent to  
2 receive generation service from another source to the cooperative prior to  
3 the initiation of the new generation service; and

4 (2) the departing member shall have made all payments for electric  
5 service or other services or products rendered to date by the cooperative.

6 (c) (1) To the extent that a cooperative provides electric generation  
7 service at retail to a person in the state and located outside of its  
8 certificated service territory pursuant to subsection (a), it shall be deemed  
9 to be the statutory equivalent of a public utility for the purposes of K.S.A.  
10 66-104, and amendments thereto, for that limited purpose in that area.

11 (2) To the extent that a cooperative provides generation electric  
12 service at retail to a person in the state and located outside of its  
13 certificated service territory pursuant to subsection (a) and to the extent  
14 that the tax on sales of electric energy pursuant to chapter 79 of the Kansas  
15 Statutes Annotated, and amendments thereto, has not previously been  
16 imposed on such generation electric service or electric energy, such retail  
17 sales to retail electric customers under this act shall be deemed "sales of  
18 electric energy" for purposes of chapter 79 of the Kansas Statutes  
19 Annotated, and amendments thereto, for that limited purpose in that area.

20 (d) Notwithstanding the provisions of subsection (a), a cooperative  
21 may petition the commission to:

22 (1) Grant an exemption from compliance with any or all such relevant  
23 terms, conditions or obligations; or

24 (2) establish and grant streamlined or reduced terms, conditions or  
25 standards.

26 Upon a finding that the petition is in the public interest, the commission  
27 shall approve such exemption. Exemptions shall not be transferable to any  
28 entity without prior commission approval. This subsection shall not apply  
29 to the extent that a cooperative, on its own or in partnership or  
30 combination with any other entity which operates on a for-profit basis,  
31 increases its total net electric loan by more than 20% of its total net  
32 electric load as of January 1, 2015, through sales outside of the  
33 cooperative's certificated service territory. Nothing in this act shall be  
34 construed to allow any entity, either through formation of a cooperative or  
35 through any other method described in this act, to avoid responsibility for  
36 paying a competitive transition charge that it would otherwise be required  
37 to pay pursuant to section 23, and amendments thereto.

38 (e) (1) A cooperative shall obtain a certificate of its financial  
39 responsibility and technical capability, including assurance that adequate  
40 reserve margins of electric supply are maintained, from the commission  
41 prior to having the right to provide generation electric service at retail to a  
42 person located outside of its certificated service territory and within the  
43 franchised territory of an electric public utility subject to commission

1 jurisdiction pursuant to K.S.A. 66-104, and amendments thereto.

2 (2) An application for certification by a cooperative shall be made to  
3 the commission in writing, be verified by oath or affirmation and be in  
4 such form and contain such information as the commission shall require. A  
5 certification shall be issued by the commission to any qualified applicant if  
6 it is found that the applicant is fit, willing and able to properly perform the  
7 service proposed in conformity with the provisions of this act, and  
8 amendments thereto. No certification issued under this subsection may be  
9 transferred without commission approval.

10 (f) (1) All other utilities and persons owning, operating or controlling  
11 electric transmission or distribution facilities within the state shall be  
12 obligated to transmit and deliver generation service by cooperatives at the  
13 same prices and at the same terms and conditions as are approved by the  
14 commission or the federal energy regulatory commission for similar  
15 service to others.

16 (2) The reliability of the transmission service provided to electric  
17 cooperative corporations by electric utilities must be comparable to the  
18 reliability which the transmission supplier provides at the wholesale level.

19 (3) No electric public utility regulated by the commission and no  
20 affiliate of such electric public utility may use the distribution system of an  
21 electric cooperative corporation or make sales to end-use customers in the  
22 territory of an electric cooperative corporation unless the commission has  
23 approved a restructuring plan for the supplying electric public utility.

24 New Sec. 23. (a) Total stranded costs shall be reasonably determined  
25 by a cooperative and may include the pro rata share of:

26 (1) All investments in electric cooperative distribution, transmission  
27 and generation plant facilities;

28 (2) foreseeable decommissioning costs of generation facilities; and

29 (3) all effective cooperative contractual commitments to others,  
30 regulatory assets, deferred debits and credits, fixed operation and  
31 maintenance expenses, expenditures made for the benefit of the departing  
32 customer and administrative and other costs incurred or to be incurred by a  
33 cooperative as a result of a decision by a member-consumer to take electric  
34 generation service from another source.

35 (b) The pro rata share of cooperative stranded costs shall be  
36 determined on the basis of historical energy and capacity usage by such  
37 member-consumer, compared to historical total energy and capacity usage  
38 of such cooperative or by direct assignment, where applicable.

39 New Sec. 24. (a) The transition surcharge assessed by a cooperative  
40 pursuant to section 23, and amendments thereto, generally shall not be  
41 subject to the jurisdiction or control of the commission. A cooperative  
42 shall have the option of submitting its proposed transition surcharge for  
43 review by the commission in the manner set forth in this section.

1 (b) (1) A cooperative may elect, either by an affirmative vote of  $\frac{2}{3}$  of  
2 all members of the cooperative or by an affirmative vote of  $\frac{2}{3}$  of all  
3 directors of the cooperative, to submit a transition surcharge that has been  
4 adopted by its board of directors to the commission for review and  
5 approval. Within 30 days of such election by a cooperative, the secretary  
6 of the cooperative shall certify such election and submit the transition  
7 surcharge to the commission with a request for review and approval.

8 (2) Within 90 days after submission, the commission shall make a  
9 determination as to whether the transition surcharge of a cooperative is just  
10 and reasonable and shall issue an order of its determination.

11 (3) If no order is issued within 90 days, the transition surcharge shall  
12 be deemed to be approved as being just and reasonable and it shall have  
13 full force and effect. All review proceedings shall be terminated and no  
14 appeal may be taken as to the effectiveness of the transition surcharge.

15 (c) A cooperative may take action by a majority vote of its board of  
16 directors to alter the amount of its transition surcharge. If the transition  
17 surcharge has previously been submitted to the commission for review and  
18 approval pursuant to this section and if the change by the board of  
19 directors causes a reduction of the current transition surcharge greater than  
20 10%, that action by the board of directors shall have the effect of  
21 immediately terminating any pending approval proceeding by the  
22 commission and ending its jurisdiction and control over the subject  
23 transition surcharge.

24 New Sec. 25. Cooperatives shall ensure that universal service and  
25 energy conservation policies, activities and services they provide as of  
26 January 1, 2015, to assist customers who are low income to afford electric  
27 service, are appropriately funded and available within their territories.  
28 Such activities shall be funded by non-bypassable, competitively-neutral  
29 cost recovery mechanisms that fully recover the costs of universal service  
30 and energy conservation services, as defined in section 2, and amendments  
31 thereto.

32 New Sec. 26. (a) The governing body of a municipality may, by  
33 ordinance or resolution, aggregate, pursuant to this section, one or more  
34 classes of the retail electric loads located within the municipality, and for  
35 such purpose, may enter into service agreements to facilitate for those  
36 loads the sale and purchase of electricity. Such governing body may  
37 exercise the power to aggregate jointly with any other one or more  
38 governing body.

39 (b) (1) The ordinance or resolution adopted pursuant to this section  
40 shall specify whether aggregation will occur either with only the prior  
41 consent of each person or entity owning, occupying, controlling or using  
42 an electric load center proposed to be aggregated or will occur  
43 automatically for all persons or entities, subject to the opt-out provisions

1 of this section.

2 (2) If an ordinance or resolution adopted pursuant to this section  
3 specifies that aggregation will occur automatically, the ordinance or  
4 resolution shall direct the board of canvassers of a municipality to submit  
5 the question of the authority to aggregate to the electors of the respective  
6 municipality at a special election on the day of the next primary or general  
7 election in the municipality. The legislative authority shall certify a copy  
8 of the ordinance or resolution to the board of canvassers not less than 75  
9 days before the day of the special election. The question shall appear on  
10 the ballot in substantially the same wording as the question stated in such  
11 ordinance or resolution. No ordinance or resolution adopted under this  
12 section that provides for an election shall take effect unless approved by a  
13 majority of the electors voting upon the ordinance or resolution at such  
14 election.

15 (c) No governing body that provides for automatic aggregation, shall  
16 aggregate the electrical load of any electric load center located within its  
17 jurisdiction unless it discloses in advance to the person or entity owning,  
18 occupying, controlling or using the load center that such person or entity  
19 will be enrolled automatically in the aggregation program and will remain  
20 so enrolled unless the person or entity affirmatively elects in writing to not  
21 be so enrolled. The disclosure shall state prominently the rates, charges,  
22 other terms and conditions of enrollment and the procedure for opting out  
23 of the aggregation program. The opt-out procedure shall allow any person  
24 or entity enrolled in the aggregation program the opportunity to opt-out of  
25 the program without paying a switching fee. Any person or entity that opts  
26 out of the aggregation program pursuant to the stated procedure shall  
27 default to the territorial service provider until such person or entity  
28 chooses an alternative provider.

29 (d) A governmental aggregator under this section is not a public  
30 utility engaging in the wholesale purchase and resale of electricity and the  
31 aggregated service is not a wholesale utility transaction. A governmental  
32 aggregator shall be subject to supervision and regulation by the  
33 commission only to the extent of any competitive retail electric service it  
34 provides and any other authority of the commission to regulate such  
35 governmental aggregator.

36 (e) A municipality may initiate a process to authorize aggregation by  
37 a majority vote of a governing body, with the approval of the mayor of  
38 such municipality. Two or more municipalities, as a group, may initiate a  
39 process jointly to authorize aggregation by a majority vote of the  
40 governing body of each particular municipality pursuant to this section.

41 (f) Upon the applicable authority pursuant to this section, the  
42 governing body of the municipality shall develop a plan of operation and  
43 governance for the aggregation program. Before adopting a plan, the

1 governing body shall hold at least two public hearings on such plan. Prior  
2 to the first hearing, the legislative authority shall provide public notice of  
3 the hearings once a week for two consecutive weeks in a newspaper of  
4 general circulation in the municipal jurisdiction. The notice shall include a  
5 summary of the plan, the date, time and location of each hearing.

6 (g) (1) A municipality or group of municipalities establishing load  
7 aggregation pursuant to this section shall, in consultation with the  
8 commission, develop an aggregation plan for review by its citizens  
9 detailing the process and consequences of aggregation. Such plan shall  
10 identify which classes of customers may participate, based on their  
11 applicable electric distribution company tariff or rate schedule. Any  
12 municipal load aggregation plan shall provide for universal access to all  
13 applicable customers and equitable treatment of all applicable classes of  
14 customers and shall meet any requirements established by law or by rules  
15 and regulations adopted by the commission concerning aggregated service.

16 (2) The aggregation plan shall include: (A) An organizational  
17 structure of the program, its operations and funding; (B) methods of  
18 establishing rates and allocating costs among participants; (C) methods for  
19 entering and terminating agreements with other entities; (D) the rights and  
20 responsibilities of program participants; (E) terms and conditions under  
21 which retail customers who have chosen to opt-out of the aggregated  
22 service may take service from the aggregated entity; and (F) termination of  
23 the program.

24 (3) The aggregation plan shall be filed with the commission for  
25 review in a public hearing and decided on by the commission within 120  
26 days. Upon approval, the governing body may solicit bids from any  
27 electric generation supplier pursuant to the methods established by the  
28 aggregation plan. The governing body shall report the results of such  
29 solicitation and proposed agreement awards to the commission, which  
30 shall have five business days in which it may suspend such awards if the  
31 solicitation or awards are not in conformity with the aggregation plan or if  
32 the cost for energy would, in the first year, exceed the cost of such energy  
33 on the standard offer, for citizens in the municipality or group of  
34 municipalities, unless the applicant can demonstrate that the cost for  
35 energy under the aggregation plan will be lower than the standard offer in  
36 the subsequent years or the applicant can demonstrate that the excess cost  
37 is due to the purchase of renewable energy. If the commission does not  
38 suspend proposed contract awards within five business days of filing, the  
39 governing body shall have the right to award the proposed agreements.

40 (h) Any retail customer in a municipality with an approved  
41 aggregation plan may opt-out of the aggregation plan and elect instead to  
42 receive retail supply from another licensed retail supplier. Within 30 days  
43 of the date the aggregated entity is fully operational, retail customers who

1 have not affirmatively elected an alternative authorized supplier shall be  
2 transferred to the aggregated entity. Following adoption of aggregation  
3 pursuant to this section, the program shall allow any retail customer to opt-  
4 out and choose any supplier that the retail customer wishes. Nothing in this  
5 section shall be construed to authorize any municipal retail load aggregator  
6 to restrict the ability of retail electric customers to obtain or receive service  
7 from any authorized electric distribution utility.

8 (i) It shall be the duty of the aggregated entity to fully disclose  
9 participating ratepayers in advance of automatic enrollment that they are to  
10 be automatically enrolled and that they have a right to opt-out of the  
11 aggregated entity without penalty. Such disclosure shall prominently state  
12 all charges to be made and shall include the standard offer rate, how to  
13 access it and the fact that it is available to them without penalty, if they are  
14 currently on standard-offer service. The commission shall provide, without  
15 charge, to any citizen a list of all other authorized electric distribution  
16 utilities available to them in a meaningful format that shall enable  
17 comparison of price and product.

18 (j) The commission shall adopt rules and regulations to carry out the  
19 provisions of this section. Such rules and regulations shall ensure: (1)  
20 Municipalities have reasonable and timely access to information pertinent  
21 to the formation of the aggregation plan and solicitation of bids to serve  
22 customers; (2) the confidentiality of individuals; and (3) charges for  
23 production of data are reasonable and not unduly burdensome to the  
24 legislative authority.

25 Sec. 27. K.S.A. 17-4654 is hereby amended to read as follows: 17-  
26 4654.-(a) In addition to the powers conferred on all corporations under  
27 article 61 of chapter 17 of the Kansas Statutes Annotated, *and amendments*  
28 *thereto*, a cooperative organized under the renewable energy electric  
29 generation cooperative act shall have power to:

- 30 (1) (a) Sue and be sued in its corporate name;  
31 (2) (b) have perpetual existence;  
32 (3) (c) adopt a corporate seal and alter the same;  
33 (4) (d) generate, either as the cooperative or as individual members of  
34 the cooperative, electricity from renewable resources or technologies and  
35 transmit and sell such electricity at wholesale;  
36 (5) (e) sell renewable attributes of the cooperative or of members of  
37 the cooperative;  
38 (6) (f) construct, purchase, lease, equip, maintain and operate, and to  
39 sell, assign, convey, lease, mortgage, pledge or encumber electric  
40 transmission lines or systems, electric generating plants, and lands,  
41 buildings, structures, easements and rights-of-way and equipment, and any  
42 other real or personal property, tangible or intangible, necessary to  
43 accomplish the purpose for which the cooperative may be organized

1 hereunder;

2 (7) (g) purchase, lease as lessee or otherwise acquire, and use, ~~and~~  
3 exercise and ~~to~~ sell, assign, convey, mortgage, pledge or otherwise dispose  
4 of or encumber, franchises, rights, privileges, licenses and easements;

5 (8) (h) borrow money and otherwise contract indebtedness, and ~~to~~  
6 issue notes, bonds and other evidences of indebtedness, and ~~to~~ secure the  
7 payment thereof by mortgage, pledge, or deed of trust of, or any other  
8 encumbrance upon, any or all of its then-owned or after-acquired real or  
9 personal property, assets, franchises, revenues or income;

10 (9) (i) construct, maintain and operate electric transmission lines  
11 along, upon, under and across publicly owned lands and public  
12 thoroughfares, roads, highways, streets, alleys, bridges and causeways in  
13 conformity with the laws of the state of Kansas;

14 (10) (j) become an incorporator, promoter, manager, member,  
15 stockholder or owner of other corporations or cooperatives, and conduct its  
16 business and exercise its powers within this state and to participate with  
17 other persons in any corporation, limited liability company, cooperative,  
18 partnership, limited partnership, joint venture or other association of any  
19 kind, or in any transaction, undertaking or arrangement which the  
20 participating person would have power to conduct by itself, whether or not  
21 such participation involves sharing or delegation of control with or to  
22 others;

23 (11) (k) adopt, amend and repeal bylaws; and

24 (12) (l) do and perform any other acts and things; and to have and  
25 exercise any other powers which may be necessary; to accomplish the  
26 purpose for which the cooperative is organized.

27 ~~(b) No cooperative organized under the renewable energy electric~~  
28 ~~generation cooperative act nor any member of such cooperative shall:~~

29 ~~(1) Enter into any contract for parallel generation services pursuant to~~  
30 ~~K.S.A. 66-1,184, and amendments thereto, with regard to power generated~~  
31 ~~by such cooperative or member from renewable resources;~~

32 ~~(2) sell electricity at retail or have a certificated territory in this state;~~

33 ~~(3) transfer or distribute electricity to any other member of the~~  
34 ~~cooperative; or~~

35 ~~(4) resell electricity provided to the cooperative or member by the~~  
36 ~~cooperative's or member's provider of last resort.~~

37 Sec. 28. K.S.A. 2013 Supp. 45-221 is hereby amended to read as  
38 follows: 45-221. (a) Except to the extent disclosure is otherwise required  
39 by law, a public agency shall not be required to disclose:

40 (1) Records the disclosure of which is specifically prohibited or  
41 restricted by federal law, state statute or rule of the Kansas supreme court  
42 or rule of the senate committee on confirmation oversight relating to  
43 information submitted to the committee pursuant to K.S.A. 2013 Supp. 75-

1 4315d, and amendments thereto, or the disclosure of which is prohibited or  
2 restricted pursuant to specific authorization of federal law, state statute or  
3 rule of the Kansas supreme court or rule of the senate committee on  
4 confirmation oversight relating to information submitted to the committee  
5 pursuant to K.S.A. 2013 Supp. 75-4315d, and amendments thereto, to  
6 restrict or prohibit disclosure.

7 (2) Records which are privileged under the rules of evidence, unless  
8 the holder of the privilege consents to the disclosure.

9 (3) Medical, psychiatric, psychological or alcoholism or drug  
10 dependency treatment records which pertain to identifiable patients.

11 (4) Personnel records, performance ratings or individually identifiable  
12 records pertaining to employees or applicants for employment, except that  
13 this exemption shall not apply to the names, positions, salaries or actual  
14 compensation employment contracts or employment-related contracts or  
15 agreements and lengths of service of officers and employees of public  
16 agencies once they are employed as such.

17 (5) Information which would reveal the identity of any undercover  
18 agent or any informant reporting a specific violation of law.

19 (6) Letters of reference or recommendation pertaining to the character  
20 or qualifications of an identifiable individual, except documents relating to  
21 the appointment of persons to fill a vacancy in an elected office.

22 (7) Library, archive and museum materials contributed by private  
23 persons, to the extent of any limitations imposed as conditions of the  
24 contribution.

25 (8) Information which would reveal the identity of an individual who  
26 lawfully makes a donation to a public agency, if anonymity of the donor is  
27 a condition of the donation, except if the donation is intended for or  
28 restricted to providing remuneration or personal tangible benefit to a  
29 named public officer or employee.

30 (9) Testing and examination materials, before the test or examination  
31 is given or if it is to be given again, or records of individual test or  
32 examination scores, other than records which show only passage or failure  
33 and not specific scores.

34 (10) Criminal investigation records, except as provided herein. The  
35 district court, in an action brought pursuant to K.S.A. 45-222, and  
36 amendments thereto, may order disclosure of such records, subject to such  
37 conditions as the court may impose, if the court finds that disclosure:

38 (A) Is in the public interest;

39 (B) would not interfere with any prospective law enforcement action,  
40 criminal investigation or prosecution;

41 (C) would not reveal the identity of any confidential source or  
42 undercover agent;

43 (D) would not reveal confidential investigative techniques or

1 procedures not known to the general public;

2 (E) would not endanger the life or physical safety of any person; and

3 (F) would not reveal the name, address, phone number or any other  
4 information which specifically and individually identifies the victim of any  
5 sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated,  
6 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
7 Annotated, and amendments thereto.

8 If a public record is discretionarily closed by a public agency pursuant  
9 to this subsection, the record custodian, upon request, shall provide a  
10 written citation to the specific provisions of paragraphs (A) through (F)  
11 that necessitate closure of that public record.

12 (11) Records of agencies involved in administrative adjudication or  
13 civil litigation, compiled in the process of detecting or investigating  
14 violations of civil law or administrative rules and regulations, if disclosure  
15 would interfere with a prospective administrative adjudication or civil  
16 litigation or reveal the identity of a confidential source or undercover  
17 agent.

18 (12) Records of emergency or security information or procedures of a  
19 public agency, or plans, drawings, specifications or related information for  
20 any building or facility which is used for purposes requiring security  
21 measures in or around the building or facility or which is used for the  
22 generation or transmission of power, water, fuels or communications, if  
23 disclosure would jeopardize security of the public agency, building or  
24 facility.

25 (13) The contents of appraisals or engineering or feasibility estimates  
26 or evaluations made by or for a public agency relative to the acquisition of  
27 property, prior to the award of formal contracts therefor.

28 (14) Correspondence between a public agency and a private  
29 individual, other than correspondence which is intended to give notice of  
30 an action, policy or determination relating to any regulatory, supervisory or  
31 enforcement responsibility of the public agency or which is widely  
32 distributed to the public by a public agency and is not specifically in  
33 response to communications from such a private individual.

34 (15) Records pertaining to employer-employee negotiations, if  
35 disclosure would reveal information discussed in a lawful executive  
36 session under K.S.A. 75-4319, and amendments thereto.

37 (16) Software programs for electronic data processing and  
38 documentation thereof, but each public agency shall maintain a register,  
39 open to the public, that describes:

40 (A) The information which the agency maintains on computer  
41 facilities; and

42 (B) the form in which the information can be made available using  
43 existing computer programs.

1 (17) Applications, financial statements and other information  
2 submitted in connection with applications for student financial assistance  
3 where financial need is a consideration for the award.

4 (18) Plans, designs, drawings or specifications which are prepared by  
5 a person other than an employee of a public agency or records which are  
6 the property of a private person.

7 (19) Well samples, logs or surveys which the state corporation  
8 commission requires to be filed by persons who have drilled or caused to  
9 be drilled, or are drilling or causing to be drilled, holes for the purpose of  
10 discovery or production of oil or gas, to the extent that disclosure is  
11 limited by rules and regulations of the state corporation commission.

12 (20) Notes, preliminary drafts, research data in the process of  
13 analysis, unfunded grant proposals, memoranda, recommendations or  
14 other records in which opinions are expressed or policies or actions are  
15 proposed, except that this exemption shall not apply when such records are  
16 publicly cited or identified in an open meeting or in an agenda of an open  
17 meeting.

18 (21) Records of a public agency having legislative powers, which  
19 records pertain to proposed legislation or amendments to proposed  
20 legislation, except that this exemption shall not apply when such records  
21 are:

22 (A) Publicly cited or identified in an open meeting or in an agenda of  
23 an open meeting; or

24 (B) distributed to a majority of a quorum of any body which has  
25 authority to take action or make recommendations to the public agency  
26 with regard to the matters to which such records pertain.

27 (22) Records of a public agency having legislative powers, which  
28 records pertain to research prepared for one or more members of such  
29 agency, except that this exemption shall not apply when such records are:

30 (A) Publicly cited or identified in an open meeting or in an agenda of  
31 an open meeting; or

32 (B) distributed to a majority of a quorum of any body which has  
33 authority to take action or make recommendations to the public agency  
34 with regard to the matters to which such records pertain.

35 (23) Library patron and circulation records which pertain to  
36 identifiable individuals.

37 (24) Records which are compiled for census or research purposes and  
38 which pertain to identifiable individuals.

39 (25) Records which represent and constitute the work product of an  
40 attorney.

41 (26) Records of a utility or other public service pertaining to  
42 individually identifiable residential customers of the utility or service.

43 (27) Specifications for competitive bidding, until the specifications

1 are officially approved by the public agency.

2 (28) Sealed bids and related documents, until a bid is accepted or all  
3 bids rejected.

4 (29) Correctional records pertaining to an identifiable inmate or  
5 release, except that:

6 (A) The name; photograph and other identifying information;  
7 sentence data; parole eligibility date; custody or supervision level;  
8 disciplinary record; supervision violations; conditions of supervision,  
9 excluding requirements pertaining to mental health or substance abuse  
10 counseling; location of facility where incarcerated or location of parole  
11 office maintaining supervision and address of a releasee whose crime was  
12 committed after the effective date of this act shall be subject to disclosure  
13 to any person other than another inmate or releasee, except that the  
14 disclosure of the location of an inmate transferred to another state pursuant  
15 to the interstate corrections compact shall be at the discretion of the  
16 secretary of corrections;

17 (B) the attorney general, law enforcement agencies, counsel for the  
18 inmate to whom the record pertains and any county or district attorney  
19 shall have access to correctional records to the extent otherwise permitted  
20 by law;

21 (C) the information provided to the law enforcement agency pursuant  
22 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
23 amendments thereto, shall be subject to disclosure to any person, except  
24 that the name, address, telephone number or any other information which  
25 specifically and individually identifies the victim of any offender required  
26 to register as provided by the Kansas offender registration act, K.S.A. 22-  
27 4901 et seq., and amendments thereto, shall not be disclosed; and

28 (D) records of the department of corrections regarding the financial  
29 assets of an offender in the custody of the secretary of corrections shall be  
30 subject to disclosure to the victim, or such victim's family, of the crime for  
31 which the inmate is in custody as set forth in an order of restitution by the  
32 sentencing court.

33 (30) Public records containing information of a personal nature where  
34 the public disclosure thereof would constitute a clearly unwarranted  
35 invasion of personal privacy.

36 (31) Public records pertaining to prospective location of a business or  
37 industry where no previous public disclosure has been made of the  
38 business' or industry's interest in locating in, relocating within or  
39 expanding within the state. This exception shall not include those records  
40 pertaining to application of agencies for permits or licenses necessary to  
41 do business or to expand business operations within this state, except as  
42 otherwise provided by law.

43 (32) Engineering and architectural estimates made by or for any

1 public agency relative to public improvements.

2 (33) Financial information submitted by contractors in qualification  
3 statements to any public agency.

4 (34) Records involved in the obtaining and processing of intellectual  
5 property rights that are expected to be, wholly or partially vested in or  
6 owned by a state educational institution, as defined in K.S.A. 76-711, and  
7 amendments thereto, or an assignee of the institution organized and  
8 existing for the benefit of the institution.

9 (35) Any report or record which is made pursuant to K.S.A. 65-4922,  
10 65-4923 or 65-4924, and amendments thereto, and which is privileged  
11 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

12 (36) Information which would reveal the precise location of an  
13 archeological site.

14 (37) Any financial data or traffic information from a railroad  
15 company, to a public agency, concerning the sale, lease or rehabilitation of  
16 the railroad's property in Kansas.

17 (38) Risk-based capital reports, risk-based capital plans and  
18 corrective orders including the working papers and the results of any  
19 analysis filed with the commissioner of insurance in accordance with  
20 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

21 (39) Memoranda and related materials required to be used to support  
22 the annual actuarial opinions submitted pursuant to subsection (b) of  
23 K.S.A. 40-409, and amendments thereto.

24 (40) Disclosure reports filed with the commissioner of insurance  
25 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

26 (41) All financial analysis ratios and examination synopses  
27 concerning insurance companies that are submitted to the commissioner by  
28 the national association of insurance commissioners' insurance regulatory  
29 information system.

30 (42) Any records the disclosure of which is restricted or prohibited by  
31 a tribal-state gaming compact.

32 (43) Market research, market plans, business plans and the terms and  
33 conditions of managed care or other third-party contracts, developed or  
34 entered into by the university of Kansas medical center in the operation  
35 and management of the university hospital which the chancellor of the  
36 university of Kansas or the chancellor's designee determines would give an  
37 unfair advantage to competitors of the university of Kansas medical center.

38 (44) The amount of franchise tax paid to the secretary of revenue or  
39 the secretary of state by domestic corporations, foreign corporations,  
40 domestic limited liability companies, foreign limited liability companies,  
41 domestic limited partnership, foreign limited partnership, domestic limited  
42 liability partnerships and foreign limited liability partnerships.

43 (45) Records, other than criminal investigation records, the disclosure

1 of which would pose a substantial likelihood of revealing security  
2 measures that protect: (A) Systems, facilities or equipment used in the  
3 production, transmission or distribution of energy, water or  
4 communications services; (B) transportation and sewer or wastewater  
5 treatment systems, facilities or equipment; or (C) private property or  
6 persons, if the records are submitted to the agency. For purposes of this  
7 paragraph, security means measures that protect against criminal acts  
8 intended to intimidate or coerce the civilian population, influence  
9 government policy by intimidation or coercion or to affect the operation of  
10 government by disruption of public services, mass destruction,  
11 assassination or kidnapping. Security measures include, but are not limited  
12 to, intelligence information, tactical plans, resource deployment and  
13 vulnerability assessments.

14 (46) Any information or material received by the register of deeds of  
15 a county from military discharge papers, DD Form 214. Such papers shall  
16 be disclosed: To the military dischargee; to such dischargee's immediate  
17 family members and lineal descendants; to such dischargee's heirs, agents  
18 or assigns; to the licensed funeral director who has custody of the body of  
19 the deceased dischargee; when required by a department or agency of the  
20 federal or state government or a political subdivision thereof; when the  
21 form is required to perfect the claim of military service or honorable  
22 discharge or a claim of a dependent of the dischargee; and upon the written  
23 approval of the commissioner of veterans affairs, to a person conducting  
24 research.

25 (47) Information that would reveal the location of a shelter or a  
26 safehouse or similar place where persons are provided protection from  
27 abuse or the name, address, location or other contact information of  
28 alleged victims of stalking, domestic violence or sexual assault.

29 (48) Policy information provided by an insurance carrier in  
30 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments  
31 thereto. This exemption shall not be construed to preclude access to an  
32 individual employer's record for the purpose of verification of insurance  
33 coverage or to the department of labor for their business purposes.

34 (49) An individual's e-mail address, cell phone number and other  
35 contact information which has been given to the public agency for the  
36 purpose of public agency notifications or communications which are  
37 widely distributed to the public.

38 (50) Information provided by providers to the local collection point  
39 administrator or to the 911 coordinating council pursuant to the Kansas  
40 911 act, and amendments thereto, upon request of the party submitting  
41 such records.

42 (51) Records of a public agency on a public website which are  
43 searchable by a keyword search and identify the home address or home

1 ownership of a law enforcement officer as defined in K.S.A. 2013 Supp.  
2 21-5111, and amendments thereto, parole officer, probation officer, court  
3 services officer or community correctional services officer. Such  
4 individual officer shall file with the custodian of such record a request to  
5 have such officer's identifying information restricted from public access on  
6 such public website. Within 10 business days of receipt of such requests,  
7 the public agency shall restrict such officer's identifying information from  
8 such public access. Such restriction shall expire after five years and such  
9 officer may file with the custodian of such record a new request for  
10 restriction at any time.

11 (52) Records of a public agency on a public website which are  
12 searchable by a keyword search and identify the home address or home  
13 ownership of a federal judge, a justice of the supreme court, a judge of the  
14 court of appeals, a district judge, a district magistrate judge, the United  
15 States attorney for the district of Kansas, an assistant United States  
16 attorney, the attorney general, an assistant attorney general, a district  
17 attorney or county attorney or an assistant district attorney or assistant  
18 county attorney. Such person shall file with the custodian of such record a  
19 request to have such person's identifying information restricted from  
20 public access on such public website. Within 10 business days of receipt of  
21 such requests, the public agency shall restrict such person's identifying  
22 information from such public access. Such restriction shall expire after  
23 five years and such person may file with the custodian of such record a  
24 new request for restriction at any time.

25 (53) Records of a public agency that would disclose the name, home  
26 address, zip code, e-mail address, phone number or cell phone number or  
27 other contact information for any person licensed to carry concealed  
28 handguns or of any person who enrolled in or completed any weapons  
29 training in order to be licensed or has made application for such license  
30 under the personal and family protection act, K.S.A. 2013 Supp. 75-7c01  
31 et seq., and amendments thereto, shall not be disclosed unless otherwise  
32 required by law.

33 (54) Records of a utility concerning information about cyber security  
34 threats, attacks or general attempts to attack utility operations provided to  
35 law enforcement agencies, the state corporation commission, the federal  
36 energy regulatory commission, the department of energy, the southwest  
37 power pool, the North American electric reliability corporation, the federal  
38 communications commission or any other federal, state or regional  
39 organization that has a responsibility for the safeguarding of  
40 telecommunications, electric, potable water, waste water disposal or  
41 treatment, motor fuel or natural gas energy supply systems.

42 (55) *Confidential, proprietary or trade secret information provided to*  
43 *the state corporation commission pursuant to the Kansas electricity*

1 *competition and choice act, and amendments thereto, upon request of the*  
2 *party submitting such records.*

3 (b) Except to the extent disclosure is otherwise required by law or as  
4 appropriate during the course of an administrative proceeding or on appeal  
5 from agency action, a public agency or officer shall not disclose financial  
6 information of a taxpayer which may be required or requested by a county  
7 appraiser or the director of property valuation to assist in the determination  
8 of the value of the taxpayer's property for ad valorem taxation purposes; or  
9 any financial information of a personal nature required or requested by a  
10 public agency or officer, including a name, job description or title  
11 revealing the salary or other compensation of officers, employees or  
12 applicants for employment with a firm, corporation or agency, except a  
13 public agency. Nothing contained herein shall be construed to prohibit the  
14 publication of statistics, so classified as to prevent identification of  
15 particular reports or returns and the items thereof.

16 (c) As used in this section, the term "cited or identified" shall not  
17 include a request to an employee of a public agency that a document be  
18 prepared.

19 (d) If a public record contains material which is not subject to  
20 disclosure pursuant to this act, the public agency shall separate or delete  
21 such material and make available to the requester that material in the  
22 public record which is subject to disclosure pursuant to this act. If a public  
23 record is not subject to disclosure because it pertains to an identifiable  
24 individual, the public agency shall delete the identifying portions of the  
25 record and make available to the requester any remaining portions which  
26 are subject to disclosure pursuant to this act, unless the request is for a  
27 record pertaining to a specific individual or to such a limited group of  
28 individuals that the individuals' identities are reasonably ascertainable, the  
29 public agency shall not be required to disclose those portions of the record  
30 which pertain to such individual or individuals.

31 (e) The provisions of this section shall not be construed to exempt  
32 from public disclosure statistical information not descriptive of any  
33 identifiable person.

34 (f) Notwithstanding the provisions of subsection (a), any public  
35 record which has been in existence more than 70 years shall be open for  
36 inspection by any person unless disclosure of the record is specifically  
37 prohibited or restricted by federal law, state statute or rule of the Kansas  
38 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and  
39 amendments thereto.

40 (g) Any confidential records or information relating to security  
41 measures provided or received under the provisions of subsection (a)(45)  
42 shall not be subject to subpoena, discovery or other demand in any  
43 administrative, criminal or civil action.

1       Sec. 29. K.S.A. 66-101a is hereby amended to read as follows: 66-  
2 101a. As used in this act:

3       (a) "Electric public utility" means any public utility, as defined in  
4 K.S.A. 66-104, and amendments thereto, which generates, *transmits*,  
5 *distributes* or sells electricity.

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

7       Sec. 30. K.S.A. 66-117 is hereby amended to read as follows: 66-117.

8       (a) Unless the state corporation commission otherwise orders, no common  
9 carrier or public utility over which the commission has control shall make  
10 effective any changed rate, joint rate, toll, charge or classification or  
11 schedule of charges, or any rule or regulation or practice pertaining to the  
12 service or rates of such public utility or common carrier except by filing  
13 the same with the commission at least 30 days prior to the proposed  
14 effective date. The commission, for good cause, may allow such changed  
15 rate, joint rate, toll, charge or classification or schedule of charges, or rule  
16 or regulation or practice pertaining to the service or rates of any such  
17 public utility or common carrier to become effective on less than 30 days'  
18 notice. If the commission allows a change to become effective on less than  
19 30 days' notice, the effective date of the allowed change shall be the date  
20 established in the commission order approving such change, or the date of  
21 the order if no effective date is otherwise established. Any such proposed  
22 change shall be shown by filing with the state corporation commission a  
23 schedule showing the changes, and such changes shall be plainly indicated  
24 by proper reference marks in amendments or supplements to existing  
25 tariffs, schedules or classifications, or in new issues thereof.

26       (b) Whenever any common carrier or public utility governed by the  
27 provisions of this act files with the state corporation commission a  
28 schedule showing the changes desired to be made and put in force by such  
29 public utility or common carrier, the commission either upon complaint or  
30 upon its own motion, may give notice and hold a hearing upon such  
31 proposed changes. Pending such hearing, the commission may suspend the  
32 operation of such schedule and defer the effective date of such change in  
33 rate, joint rate, toll, charge or classification or schedule of charges, or any  
34 rule or regulation or practice pertaining to the service or rates of any such  
35 public utility or common carrier by delivering to such public utility or  
36 common carrier a statement in writing of its reasons for such suspension.

37       (c) The commission shall not delay the effective date of the proposed  
38 change in rate, joint rate, toll, charge or classification or schedule of  
39 charges, or in any rule or regulation or practice pertaining to the service or  
40 rates of any such public utility or common carrier, more than 240 days  
41 beyond the date the public utility or common carrier filed its application  
42 requesting the proposed change. If the commission does not suspend the  
43 proposed schedule within 30 days of the date the same is filed by the

1 public utility or common carrier, such proposed schedule shall be deemed  
2 approved by the commission and shall take effect on the proposed  
3 effective date. If the commission has not issued a final order on the  
4 proposed change in any rate, joint rate, toll, charge or classification or  
5 schedule of charges, or any rule or regulation or practice pertaining to the  
6 service or rates of any such public utility or common carrier, within 240  
7 days after the carrier or utility files its application requesting the proposed  
8 change, then the schedule shall be deemed approved by the commission  
9 and the proposed change shall be effective immediately, except that: (1)  
10 For purposes of the foregoing provisions regarding the period of time  
11 within which the commission shall act on an application, any amendment  
12 to an application for a proposed change in any rate, which increases the  
13 amount sought by the public utility or common carrier or substantially  
14 alters the facts used as a basis for such requested change of rate, shall, at  
15 the option of the commission, be deemed a new application and the 240-  
16 day period shall begin again from the date of the filing of the amendment;;  
17 (2) if hearings are in process before the commission on a proposed change  
18 requested by the public utility or common carrier on the last day of such  
19 240-day period, such period shall be extended to the end of such hearings  
20 plus 20 days to allow the commission to prepare and issue its final order;;  
21 and; (3) nothing in this subsection shall preclude the public utility or  
22 common carrier and the commission from agreeing to a waiver or an  
23 extension of the 240-day period.

24 (d) Except as provided in subsection (c), no change shall be made in  
25 any rate, toll, charge, classification or schedule of charges or joint rates, or  
26 in any rule or regulation or practice pertaining to the service or rates of any  
27 such public utility or common carrier, without the consent of the  
28 commission. Within 30 days after such changes have been authorized by  
29 the state corporation commission or become effective as provided in  
30 subsection (c), copies of all tariffs, schedules and classifications, and all  
31 rules and regulations, except those determined to be confidential under  
32 rules and regulations adopted by the commission, shall be filed in every  
33 station, office or depot of every such public utility and every common  
34 carrier in this state, for public inspection.

35 (e) Upon a showing by a public utility before the state corporation  
36 commission at a public hearing and a finding by the commission that such  
37 utility has invested in projects or systems that can be reasonably expected:  
38 (1) To produce energy from a renewable resource other than nuclear for  
39 the use of its customers;; (2) to cause the conservation of energy used by  
40 its customers;; or (3) to bring about the more efficient use of energy by its  
41 customers, the commission may allow a return on such investment equal to  
42 an increment of from  $\frac{1}{2}\%$  to 2% plus an amount equal to the rate of return  
43 fixed for the utility's other investment in property found by the

1 commission to be used or required to be used in its services to the public.  
2 The commission may also allow such higher rate of return on investments  
3 by a public utility in experimental projects, such as load management  
4 devices, which it determines after public hearing to be reasonably designed  
5 to cause more efficient utilization of energy and in energy conservation  
6 programs or measures which it determines after public hearing provides a  
7 reduction in energy usage by its customers in a cost-effective manner.

8 (f) Whenever, after the effective date of this act, an electric public  
9 utility, a natural gas public utility or a combination thereof, files tariffs  
10 reflecting a surcharge on the utility's bills for utility service designed to  
11 collect the annual increase in expense charged on its books and records for  
12 ad valorem taxes, such utility shall report annually to the state corporation  
13 commission the changes in expense charged for ad valorem taxes. For  
14 purposes of this section, such amounts charged to expense on the books  
15 and records of the utility may be estimated once the total property tax  
16 payment is known. If found necessary by the commission or the utility, the  
17 utility shall file tariffs which reflect the change as a revision to the  
18 surcharge. Upon a showing that the surcharge is applied to bills in a  
19 reasonable manner and is calculated to substantially collect the increase in  
20 ad valorem tax expense charged on the books and records of the utility, or  
21 reduce any existing surcharge based upon a decrease in ad valorem tax  
22 expense incurred on the books and records of the utility, the commission  
23 shall approve such tariffs within 30 days of the filing. Any over or under  
24 collection of the actual ad valorem tax increase charged to expense on the  
25 books of the utility shall be either credited or collected through the  
26 surcharge in subsequent periods. The establishment of a surcharge under  
27 this section shall not be deemed to be a rate increase for purposes of this  
28 act. The net effect of any surcharges established under this section shall be  
29 included by the commission in the establishment of base rates in any  
30 subsequent rate case filed by the utility.

31 (g) (1) *The commission may prescribe for any electric public utility a*  
32 *mandatory system of a sliding scale of rates or other method for the*  
33 *automatic adjustment of the utility's rates as shall provide a just and*  
34 *reasonable return on the rate base of such utility to be determined upon*  
35 *such equitable or reasonable basis in order to provide such fair return.*  
36 *Any sliding scale or method that automatically adjusts rates to reflect*  
37 *changes in fuel costs shall be limited to the cost of such fuel delivered to*  
38 *the utility at the generating site after deducting the present salvage or re-*  
39 *use value of such fuel as determined by the commission.*

40 (2) *Upon provision of such notice and a hearing, the commission may*  
41 *revoke approval of such cost adjustment at any time and fix other rates for*  
42 *any such utility if the commission finds the existing rates unjust or*  
43 *unreasonable.*

1       (h) Except as to the time limits prescribed in subsection (c),  
2 proceedings under this section shall be conducted in accordance with the  
3 provisions of the Kansas administrative procedure act.

4       Sec. 31. K.S.A. 12-897, 17-4654, 66-101a, 66-117, 66-1,170, 66-  
5 1,171, 66-1,173, 66-1,175 and 66-1,176 and K.S.A. 2013 Supp. 45-221  
6 and 66-1,174 are hereby repealed.

7       Sec. 32. This act shall take effect and be in force from and after its  
8 publication in the statute book.