

## HOUSE BILL No. 2035

By Committee on Energy and Utilities

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9 AN ACT concerning utilities; relating to cooperatives; amending K.S.A.  
10 66-104d and repealing the existing section.

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

13 Section 1. K.S.A. 66-104d is hereby amended to read as follows: 66-  
14 104d. (a) As used in this section, "cooperative" means any cooperative,  
15 ~~as defined by K.S.A. 17-4603, and amendments thereto, which has fewer~~  
16 ~~than 15,000 customers and which provides power principally at retail~~  
17 *corporation organized under the electric cooperative act, K.S.A. 17-4601*  
18 *et seq., and amendments thereto, or which becomes subject to the electric*  
19 *cooperative act in the manner therein provided; or any limited liability*  
20 *company or corporation providing electric service at wholesale in the state*  
21 *of Kansas that is owned by four or more electric cooperatives that provide*  
22 *retail service in the state of Kansas; or any customer-owned corporation*  
23 *formed prior to 2004.*

24 (b) Except as otherwise provided in subsection (f), a cooperative may  
25 elect to be exempt from the jurisdiction, regulation, supervision and con-  
26 trol of the state corporation commission by complying with the provisions  
27 of subsection (c).

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

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

33 (2) The proposition for deregulation shall be presented to a meeting  
34 of the members, the notice of which shall set forth the proposition for  
35 deregulation and the time and place of the meeting. Notice to the mem-  
36 bers shall be written and delivered not less than 21 nor more than 45  
37 days before the date of the meeting.

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

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

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

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

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

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

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

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

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

41 (3) Any customer of a cooperative wishing to petition the commission  
42 pursuant to subsection (g)(1) may request from the cooperative the  
43 names, addresses and rate classifications of all the cooperative's customers

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

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

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

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

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

21 Sec. 2. K.S.A. 66-104d is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its  
23 publication in the statute book.