

SENATE BILL No. 348

By Committee on Utilities

1-21

1 AN ACT concerning the state corporation commission; relating to the
2 jurisdiction of the commission over electric public utilities; exempting
3 any electric public utility that is a not-for-profit wholly owned
4 subsidiary of an electric cooperative public utility from the jurisdiction
5 of the state corporation commission; establishing certain exceptions;
6 authorizing the customers of such subsidiary utility to petition the
7 commission to investigate the rates of such utility; authorizing the
8 commission to order new rates if the commission finds that such rates
9 are found to be unjust, unreasonable, unjustly discriminatory or unduly
10 preferential; requiring the customers of such subsidiary utility to
11 receive notice of and be provided access to meetings concerning
12 electric rates; ***providing an option for the customers of such***
13 ***subsidiary utility to elect to terminate such exemption.***
14

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

16 Section 1. (a) Except as otherwise provided in this section, an electric
17 public utility shall not be subject to the jurisdiction, regulation, supervision
18 and control of the state corporation commission if such electric public
19 utility:

20 (1) Is a not-for-profit wholly owned subsidiary of a corporation
21 organized under the electric cooperative act, K.S.A. 17-4601 et seq., and
22 amendments thereto; and

23 (2) provides retail electric service to customers in this state.

24 (b) (1) Notwithstanding an electric public utility's exemption from the
25 jurisdiction of the state corporation commission pursuant to this section,
26 the commission shall investigate all rates, joint rates, tolls, charges and
27 exactions, classifications and schedules of rates of such electric public
28 utility if there is filed with the commission, not more than one year after a
29 change in such utility's rates, joint rates, tolls, charges and exactions,
30 classifications or schedules of rates, a petition signed by not less than 5%
31 of such electric public utility's customers or 3% of the electric public
32 utility's customers from any one rate class. If, after investigation, the
33 commission finds that such rates, joint rates, tolls, charges or exactions,
34 classifications or schedules of rates are unjust, unreasonable, unjustly
35 discriminatory or unduly preferential, the commission shall have the
36 power to fix and order substitutions to such rates, joint rates, tolls, charges

1 and exactions, classifications or schedules of rates as are just and
2 reasonable.

3 (2) The rates, joint rates, tolls, charges and exactions, classifications
4 or schedules of rates under investigation shall remain in effect subject to
5 change or refund pending the state corporation commission's investigation
6 and final order.

7 (3) Any customer of the electric public utility that seeks to petition
8 the commission pursuant to subsection (b)(1) may request from such
9 utility the names, addresses and rate classifications of all the utility's
10 customers or the utility's customers from any one or more rate classes. A
11 utility, within 21 days after receipt of such a request, shall furnish to such
12 customer the requested names, addresses and rate classifications and may
13 require such customer to pay the reasonable costs thereof.

14 (c) An electric public utility exempt from the jurisdiction of the state
15 corporation commission pursuant to this section shall provide not less than
16 10 days' notice of the time and place of any meeting of the utility or the
17 utility's parent cooperative at which rate changes are to be discussed and
18 voted on. Such notice shall be given to all retail electric customers of such
19 utility. If the meeting is held by the utility's parent cooperative, the parent
20 cooperative shall open such meeting to the customers of such utility.
21 Violations of this subsection shall be subject to civil penalties and
22 enforcement in the same manner as provided by K.S.A. 75-4320 and 75-
23 4320a, and amendments thereto, for violations of K.S.A. 75-4317 et seq.,
24 and amendments thereto.

25 (d) An electric public utility exempt from the jurisdiction of the state
26 corporation commission pursuant to this section shall maintain a schedule
27 of rates and charges at the utility's headquarters and make copies of such
28 schedule of rates and charges available to the general public during regular
29 business hours. If such a utility fails, neglects or refuses to maintain copies
30 of such schedule of rates and charges pursuant to this subsection, the
31 commission may impose a civil penalty of not more than \$500 for each
32 such violation.

33 (e) Notwithstanding any provision of law to the contrary, an electric
34 public utility exempt from the jurisdiction of the state corporation
35 commission pursuant to this section shall not issue any dividend payments,
36 stock repurchase or direct cash payment that is meant to transfer the equity
37 of the electric public utility to the utility's parent cooperative without the
38 approval of the commission.

39 (f) Notwithstanding any provision of law to the contrary, an electric
40 public utility exempt from the jurisdiction of the state corporation
41 commission pursuant to this section shall be subject to the provisions of
42 the renewable energy standards act.

43 (g) Nothing in this section shall be construed to affect the authority of

1 the state corporation commission, as otherwise provided by law, over an
2 electric public utility exempt from the jurisdiction of the commission
3 pursuant to this section, including, but not limited to, the authority vested
4 in the commission with respect to:

5 (1) Service territory pursuant to K.S.A. 66-1,170 et seq., and
6 amendments thereto;

7 (2) certificates of public convenience and necessity pursuant to
8 K.S.A. 66-131, and amendments thereto;

9 (3) charges, fees or tariffs for transmission services, except any such
10 charges, fees or tariffs for transmission services that are approved by the
11 federal energy regulatory commission and recovered through an open
12 access transmission tariff of a regional transmission organization;

13 (4) sales of power for resale, other than sales between:

14 (A) An electric public utility that does not provide retail electric
15 service in the state and is owned and governed by four or more
16 corporations organized under the electric cooperative act, K.S.A. 17-4601
17 et seq., and amendments thereto, one of which corporations shall be the
18 parent corporation of the electric public utility exempt from the
19 jurisdiction of the state corporation commission pursuant to this section;
20 and

21 (B) the electric public utility that is exempt from the jurisdiction of
22 the state corporation commission pursuant to this section;

23 (5) wire stringing pursuant to K.S.A. 66-183, and amendments
24 thereto;

25 (6) transmission line siting pursuant to K.S.A. 66-1,177 et seq., and
26 amendments thereto; or

27 (7) petitioning for relief pursuant to K.S.A. 66-144, and amendments
28 thereto.

29 ***(h) (1) Notwithstanding the provisions of this section, the customers***
30 ***of an electric public utility that is exempt from the jurisdiction of the***
31 ***state corporation commission pursuant to this section may elect to***
32 ***terminate such utility's exemption by filing a petition requesting an***
33 ***election to terminate the utility's exemption pursuant to this section.***
34 ***Such petition shall be signed by not less than 10% of the customers of***
35 ***such exempt utility and filed with the board of trustees of the utility's***
36 ***parent cooperative. Notice of the proposition to terminate the utility's***
37 ***exemption pursuant to this section shall be presented to a meeting of the***
38 ***members of the parent cooperative, which shall be open to the customers***
39 ***of the exempt utility and held at a location in the service territory of such***
40 ***exempt utility. The parent cooperative shall provide written notice to the***
41 ***members of the parent cooperative and the customers of such exempt***
42 ***utility not less than 21 nor more than 45 days before the date of the***
43 ***meeting. Such written notice shall include the proposition to terminate***

1 *such utility's exemption pursuant to this section and the time and*
2 *location of the meeting.*

3 *(2) If the proposition to terminate the utility's exemption pursuant*
4 *to this section is approved by the affirmative vote of not less than a*
5 *majority of the customers of such exempt utility voting on the*
6 *proposition, the parent cooperative shall notify the state corporation*
7 *commission in writing of the results within 10 days after the date of the*
8 *election. Voting on the proposition to terminate the utility's exemption*
9 *pursuant to this section shall be by mail ballot. An election pursuant to*
10 *this subsection may be held not more than once every two years.*

11 Sec. 2. This act shall take effect and be in force from and after its
12 publication in the Kansas register.