

SESSION OF 2025

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2149**

As Amended by Senate Committee on Utilities

Brief*

Sub. for HB 2149, as amended, would establish consumer protections for distributed energy customers and amend law related to parallel generation service contracts and net metering, including removing renewable generator capacity limits, permitting the use of locational marginal pricing, establishing a formula for determining the appropriate size for electrical loads, and establishing the customer's right to repair, among other things.

Definitions (New Section 1)

The bill would define the following terms for the new sections of law:

- “Distributed energy customer” (customer) would mean a property owner of a single-family dwelling or multi-family dwelling of two units or fewer and who is offered a contract from a distributed energy retailer for the construction, installation, or operation of a distributed energy system that is primarily intended to offset the energy consumption of a single-family or multi-family dwelling;
- “Distributed energy retailer” (retailer) would mean any person or entity that sells, markets, solicits, advertises, finances, installs, or otherwise makes

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

available for purchase a distributed energy system in the state of Kansas;

- “Distributed energy system” (system) would mean any device or assembly of devices and supporting facilities that is capable of feeding excess electrical power generated by a customer’s energy producing system into the utility’s system such that all energy output and all other services will be fully consumed by the distributed energy customer or the utility and that is or will be subject to an agreement under state law or a net metering tariff that was voluntarily established by a utility;

[Note: An example of such system would be a residential solar panel system that is interconnected with the electric grid.]

- “Permission to operate” would be defined as it is in continuing law; and
- “Utility” would mean an electric public utility, as defined in law; any cooperative, as defined in law; an electric utility owned by one or more such cooperatives; a non-stock member-owned electric cooperative corporation incorporated in Kansas; or a municipally owned or operated electric utility.

Consumer Protections (New Section 1)

The bill would prohibit any person or entity required to register with the Secretary of State pursuant to the Business Entity Standard Treatment Act from engaging in the business of or act in the capacity of a retailer within Kansas unless the person or entity is registered with the Secretary of State, in good standing, and authorized to conduct business in Kansas.

Retailer Disclosures

The bill would require a retailer, prior to entering into a contract with a customer for a distributed energy system, to provide each customer with a separate disclosure document that:

- Is written in at least 10-point font;
- Is written in the language that the retailer used to speak to the customer during the sales process or the language requested by the customer;
- Includes a description of the make and model of the system's major components and the expected useful life of the system;
- Includes a guarantee concerning the quantity of energy that the system will generate on a measurable interval and a remedy if the system does not comply with the guarantee within one year following the date the system received permission to operate;
- Does not contain blank spaces that may be subsequently filled in with terms or conditions that materially affect the timing, value, or obligation of the contract unless the terms and conditions are separately acknowledged in writing by the customer;
- Includes, in bold font and highlighted type, the total aggregate cost to the customer that would be incurred over the entirety of the contract. The total aggregate cost would be required to be separately acknowledged in writing by the customer;

- Includes a description of the ownership and transferability of any tax credits, rebates, incentives, or renewable energy certificates in connection with the system;
- Includes the name and certification number of the individual certified by the North American Board of Certified Energy Practitioners who would oversee the permitting and installation of the system or the name and license number of the master electrician or electrical contractor who would oversee the permitting and installation of the system;
- Provides a description of the process and all associated fees for transferring any financing, warranty, or other agreements relating to the system to a new owner;
- Includes the name, phone number, email, and mailing address of the person or entity that the customer may contact for questions regarding performance, maintenance, or repair of the system;
- Includes a description of the assumptions used for any savings estimates that were provided to the customer and a description of the applicable utility billing structure that pertains to the system. The descriptions and assumptions would be required to include the same provisions as outlined in the standard form published by the Attorney General;
- Includes a statement that the retailer would provide the customer proof that, within 30 days of completion of installation:
 - All permits required for the installation of the system were obtained prior to installation, if applicable;

- The system was inspected and approved by a qualified individual pursuant to the requirements of any local municipal ordinance or county resolution;
- The necessary interconnection applications and documentation were submitted to and approved by the affected utility; and
- The system received permission to operate;
- Includes a statement that any recurring payments for a system are required to pause and not be due if the system does not receive permission to operate within 90 days of the date that the first recurring payment is due. The recurring payments could resume at the time that the system receives permission to operate. Any payments due during any pause would either be forgiven or added to the end of the financing term and would not incur any penalties for non-payment during the term;
- Includes a statement describing any rate escalation, balloon payment, or potential reconfiguration of payment structure;
- Includes a statement as to whether operations or maintenance services are included as part of the original contract price and whether the costs to remove, reinstall, and repair the system are included as part of the original contract price should the system need to be removed, reinstalled, or repaired due to natural causes or due to any exterior repair, replacement, construction, or reconstruction work on the premises;
- Includes a statement describing the expected start and completion dates for the installation of the system;

- Includes a statement indicating whether any warranty or maintenance obligations related to the system could be transferred by the retailer to a third party and, if so, a statement that provides:
 - “The maintenance and repair obligations under your contract may be assigned or transferred without your consent to a third party who, if required pursuant to state law, shall be registered with the Secretary of State, in good standing and authorized to conduct business in the state and bound to all terms of the contract. If a transfer occurs, you will be notified in writing of any change to the name, mailing address, email, or phone number to use for questions and payments or to request system maintenance or repair”;
- Includes a statement indicating whether the retailer would place a lien, notice, or other filing on or against real property as a result of the contract;
- Includes a statement, in bold font and highlighted type, indicating whether the retailer will impose any fees or other costs upon the customer. If any fees or other costs will be charged to the customer, the aggregate total of the fees and other costs would be required to be provided and separately acknowledged in writing by the customer;
- Includes a statement in capital letters and bold font and highlighted type that states:
 - “[name of retailer] is not affiliated with any utility company or governmental agency and shall not claim any such affiliation”; and
- Could include any additional information that the retailer considers appropriate, only if such additional information is not intended to conceal or

obscure the disclosures required pursuant to this section.

The bill would require the disclosure statement to be signed and dated by the customer at least one calendar day after the date that the contract for the system was executed.

Violations

The bill would require that any person or entity that violates the disclosure provisions or any retailer that fails to provide and perform the disclosures in the form and manner required pursuant to this section or that makes a materially misleading statement as part of, or when presenting, the disclosures be liable for a civil penalty in an amount not to exceed \$10,000 for each violation.

The violator would be liable to the aggrieved person or customer, or to the State, for repayment of the civil penalty. The civil penalty would be recoverable in an action brought by the aggrieved person or customer or the Attorney General, county attorney, or district attorney. Any civil penalty would be in addition to any other relief, which could be granted pursuant to any other remedy available in law or equity.

If a retailer fails to comply with this section, any contract entered into between the retailer and the customer that pertains to the system would be deemed null and void.

This section would not apply to a transaction of real property on which a system is already located.

This section would take effect on July 1, 2025.

Utility Disclosures (New Section 2)

To allow a retailer to provide informed and accurate information to the customer, the bill would require a utility, upon the request of any retailer, to disclose all applications, rules, service standards, forms, or other documents required for interconnection of a system pursuant to law or a net metering tariff that was voluntarily established by a utility, including the utility's historic amount of compensation per kilowatt-hour for interconnected systems and the current compensation amount for those systems. The historic amount of compensation must be provided in a dollar amount and shown on a monthly or similar billing period basis for not less than the preceding five years.

This section would take effect on July 1, 2025.

Standard Disclosure Form (New Section 3)

The bill would require the Attorney General to appoint and convene an advisory group to collectively develop, approve, and periodically revise a standard form that could be used by retailers to perform and provide the required disclosures. The advisory group would consist of the following:

- The Attorney General or their designee;
- Representatives from interested groups, including representatives of distributed energy retailers and utilities;
- One or more members of the general public who own residential property in Kansas;
- One or more Assistant Attorneys General; and
- Any other members the Attorney General considers necessary or appropriate.

The bill would require the Attorney General to publish on their website, on or before July 1, 2025, the most current version of the standard form that is developed and approved by the advisory group.

Parallel Generation Service Contracts (Section 4)

Definitions (Subsection (a))

The bill would amend continuing law related to parallel generation service contracts and incorporate the following definitions:

- “Avoided cost” would mean the incremental cost to an electric energy utility that the utility would generate itself or purchase from another source and as “avoided cost” is interpreted by the Federal Energy Regulatory Commission (FERC) from time to time;
- “Distributed energy system” would mean any device or assembly of devices and supporting facilities that are capable of feeding excess electric power generated by the customer’s energy producing system into the utility’s system such that all energy output and all other services will be fully consumed by the customer or the utility;
- “Export” would mean power that flows from a customer’s electrical system through such customer’s billing meter and onto the utility’s electricity lines. It would include the sum of power on all phase conductors;
- “Interconnected” would mean a listed system that is designed to export power and attached or connected on the customer’s side of the retail meter at the customer’s delivery point;

- “Listed” would mean that the device or equipment has been tested and certified to meet the Institute of Electrical and Electronics Engineers safety standards that specifically pertain to the intended function of the device or equipment;
- “Locational marginal price” would mean the hourly average market price of alternating current energy per kilowatt-hour established by the applicable locational marginal price pricing code of the Southwest Power Pool (SPP);
- “Monthly system average cost of energy per kilowatt hour” would mean the sum of all volumetric costs incurred by an electric utility during a calendar month or similar billing period as billed to the utility by generation and transmission providers and any volumetric generation costs incurred by the utility to generate energy divided by the total amount of retail kilowatt-hours that the utility sold in such month or billing period;
- “Permission to operate” would mean the operational date of the customer’s system as determined by the utility;
- “Utility” would mean any electric public utility, as defined in law; cooperative, as defined in law; electric utility owned by one or more such cooperatives; non-stock member-owned electric cooperative corporation incorporated in Kansas; or municipally owned or operated electric utility; and
- “Witness test” would mean an authorized representative of the electric utility who measures or verifies a specific setting or operational condition.

Removing Capacity Limits (Subsection (b))

The bill would make technical and conforming amendments to the law, including clarifying that the customer must be in good standing with the utility. The bill would remove language from continuing law regarding compensation, renewable generator capacity limits, and certain definitions.

Applications (Subsection (c))

The bill would authorize a utility to require any customer seeking to construct and install a system to submit an application prior to any connection of the system with the utility's system; notify the utility of the proposed system; and verify that the system is constructed, installed, and operated with all applicable standards and codes. Any customer who submits an application to construct, install, and operate a system would have the option to remain on a retail rate tariff that is identical to the same rate class for which the customer would otherwise qualify as a retail customer who is not otherwise receiving service under a parallel generation service tariff or net metering tariff.

The bill would require a utility to provide notice to a customer that the utility received the customer's application within 30 days following receipt of the application. The bill would require the utility to act upon the application within 90 calendar days of receipt of the application. If one or more additional studies are required, the utility would not be subject to such a 90-day deadline but would provide the customer with an estimated time frame for action on the application as soon as practicable after any studies are completed. If the application is denied, the utility would be required to provide the customer with a list of the reasons for such denial and corrective actions needed for approval.

The bill would allow a utility to assess upon any customer requesting to install a system:

- A fair and reasonable non-refundable interconnection application fee;
- Any applicable costs incurred by the utility for any study conducted to verify and allow the requested export capacity to be interconnected at the customer's point of delivery, including, but not limited to, costs incurred as a result of the SPP's study processes; and
- Costs associated with any related system upgrade costs, devices, and equipment required to be furnished by the utility for the provision of accepting the requested export capacity.

Compensation and Locational Marginal Pricing (Subsection (d))

The bill would require every contract for parallel generation service to include provisions relating to fair and equitable compensation for energy exported to a utility by the consumer. The compensation would not be less than 100 percent of the utility's monthly avoided cost. A utility would be required to credit the compensation to the customer's account and disclose to any customer the formula that the utility uses to determine the compensation that the utility provides pursuant to a contract for parallel generation service.

The bill would provide an exception that a utility could use the locational marginal price or monthly system average cost of energy per kilowatt-hour to determine compensation for energy exported to the utility by the customer. Any such utility that uses locational marginal price or monthly system average cost of energy per kilowatt-hour would compensate the customer for the energy exported to the utility at least annually. The compensation could be paid to the customer or credited to the customer's account. When determining compensation, in no case would a utility issue an invoice for energy exported to the utility by the customer's system. Upon

the request of any customer who is subject to locational marginal price compensation, the utility would be required to disclose the locational marginal price and corresponding amount of energy exported to the utility by the customer's system.

The locational marginal price exception would sunset on July 1, 2030.

Terms and Conditions for Parallel Generation Service
(Subsection (f))

The bill would require a utility to furnish, own, and maintain at the utility's expense all necessary meters and associated equipment for billing. A utility could install at the utility's expense load research meters and equipment to monitor customer generation and load. The customer would be required to provide the utility, at no expense to the utility, a location for these meters and equipment.

The customer would be required to furnish, install, operate, and maintain in good order and repair, at the customer's expense, a listed device that is suitable for the operation of the customer's system in parallel with the utility's system. The bill would allow the utility to install, own, and maintain a disconnecting device located near the electric meter(s) or allow the utility to require that a customer's system contain a switch, circuit breaker, fuse, or other device or feature that could be accessed by the utility at any time and would provide an authorized utility worker the ability to manually disconnect the customer's system from the utility's electric distribution system.

Before granting permission to operate a system, the bill would allow the utility to require:

- A witness test of the customer's system and interconnection facilities;

- The customer to provide the certificate of inspection of the customer's system completed pursuant to any municipal ordinance or code requirements or a certification from an electrician or electrical engineer licensed in Kansas that the system is installed according to applicable codes and standards; and
- The customer to provide documentation that the customer's system was constructed and installed under the direction of a person who is certified by the North American Board of Certified Energy Practitioners or either a master electrician or electrical contractor licensed under continuing law.

The utility could require periodic witness testing of the customer's system and interconnection facilities throughout the provision of parallel generation service.

The bill would authorize the utility to have the right and authority to disconnect and isolate the distributed energy system without notice and at utility's sole discretion when:

- Electric service to a customer's premises is discontinued for any reason;
- Adverse electrical effects, such as power quality problems, are occurring or are believed to be occurring on the utility's system or the electrical equipment of other utility customers;
- Hazardous conditions are occurring or are believed to be occurring on the utility's system as a result of the operation of the system or protective equipment;
- The utility identifies uninspected or unapproved equipment or modifications to the system after initial approval;

- There is recurring abnormal operational, substandard operation, or inadequate maintenance of the distributed energy system;
- The customer fails to remit payment to the utility for any amounts owed, including, but not limited to, amounts invoiced;
- The customer does not comply with the obligations of the interconnection agreement, except that, if such non-compliance is not an emergency situation, the utility shall give the customer 90 days to cure the non-compliance prior to disconnecting and isolating the distributed energy system; or
- Disconnection is necessary due to emergency or maintenance purposes. In the event that the utility disconnects the system for maintenance, the utility would make reasonable efforts to reconnect the system as soon as practicable.

The bill would allow the customer to retain the authority to temporarily disconnect the customer's system from the utility's system at any time. Any such disconnection would not be construed as a customer's termination of the interconnection agreement absent an express action to terminate such agreement pursuant to the terms and conditions of the agreement.

Formula for Appropriately Sized Electrical Load (Subsection (g))

The bill would determine the export capacity of a customer's distributed energy system to be appropriately sized for each customer's electric load by:

- Dividing the customer's historic consumption in kilowatt-hours for the previous 12-month period by 8,760.

- Then dividing the quotient by a capacity factor of:
 - 0.144 when the customer is in the service territory of an investor-owned utility; and
 - 0.288 when the customer is in the service territory of a cooperative as defined in law, electric utility owned by one or more cooperatives, non-stock member-owned electric cooperative corporation incorporated in Kansas, or municipally owned or operated electric utility.

If the customer does not have historic consumption data that adequately reflects the customer's consumption at the premises, the bill would set the customer's historic consumption for the previous 12-month period to be 7.15 kilowatt-hours per square foot of conditioned space and would round the amount determined by the historic consumption formulas to the nearest one kilowatt alternating current power increment.

Aggregate Export Capacity (Subsection (h))

The bill would require, except as provided in the following "Exclusions" subsection, each utility to make parallel generation service available to customers who are in good standing with the utility on a first-come, first-served basis, until the utility's aggregate export capacity from all distributed energy systems, including systems that are subject to a parallel generation service tariff and systems that are subject to a net metering tariff that was either voluntarily established by the utility or by law, equals or exceeds the following:

- Commencing July 1, 2025, 6 percent of the utility's historic peak demand;
- Commencing July 1, 2026, 7 percent of the utility's historic peak demand; and

- Commencing July 1, 2027, and each year thereafter, 8 percent of the utility's historic peak demand.

The bill would allow the utility to limit the export capacity of additional systems to be connected to the utility's system due to the capacity of the distribution line to which the system would be connected.

Exclusions (Subsection (i))

The bill would clarify that a utility would not be required to make parallel generation service available to any customer who has a new or expanded facility that receives electric service at a voltage of 34.5 kilovolts or higher and commences such electric service on or after July 1, 2025.

In determining a utility's historic peak demand, a utility's peak demand would not include the additional demand of any new or expanded facility of an industrial, commercial, or data center customer that receives electric service at a voltage of 34.5 kilovolts or higher and commences such electric service on or after July 1, 2025.

This subsection would expire on July 1, 2026.

Export-limiting Devices (Subsection (j))

The bill would require the following provisions regarding export-limiting devices for any customer with a system:

- The customer would own and maintain any necessary export-limiting device;
- Protections would be in place to restrict the export-limiting device settings to qualified persons;
- The utility would have the option to require a witness test of the export-limiting device's functions

or settings prior to granting permission to operate and at any time during which the distributed energy system is connected to the utility's system;

- The export capacity of the system would not be increased without prior approval of the utility;
- The customer would allow the utility to perform periodic witness tests of the export-limiting device's functions or settings upon request;
- If the export-limiting device's functions or settings are incorrect or if the device fails to limit the export of power below the designated export capacity for more than 15 minutes in any single event, the customer shall cease operation of the system until repair or reprogramming of the export-limiting device is completed. The utility could require and conduct a witness test prior to authorizing operation of the system; and
- The utility would not restrict the brand or model of the export-limiting device if the device is approved by the manufacturer of a listed distributed energy system or is listed to perform such operations in conjunction with the customer's system.

Regulation (Subsection (k))

Regarding parallel generation service, for a utility subject to the jurisdiction, regulation, supervision, and control (regulation) of the Kansas Corporation Commission (KCC), the bill would require that service under any parallel generation service contract would be subject to either the utility's rules and regulations on file with the KCC, which would include a standard interconnection process and requirements for the utility's system, or the current Federal Energy Regulatory Commission (FERC) interconnection procedures and regulations.

For a utility that is not subject to KCC regulation, the bill would require that service under any parallel generation service contract would be subject to the current FERC interconnection procedures and regulations.

The bill would clarify that, in any case where the customer and a utility that is subject to KCC regulation cannot agree to terms and conditions of any contract provided for by this section, the KCC would be required to establish the terms and conditions for the contract.

Fees (Subsection (l))

The bill would prohibit a utility from imposing any additional fees, charges, or requirements for the provision of parallel generation service unless expressly authorized in this section.

The bill would also clarify that nothing in this section could be construed to:

- Prohibit a utility from charging a customer for the use of the utility's system; and
- Authorize a utility to charge a customer for power exported to the utility by a customer.

Canceling Service Contracts (Subsection (m))

The bill would require any customer who has received utility approval to construct or operate a system to notify the utility within 30 calendar days following the date when the construction has been canceled or the system is permanently shut down. The utility would be required to cancel the parallel generation service contract with the customer upon receipt of such notice.

If a utility has reason to suspect that a customer's system has been abandoned and is no longer producing energy, the utility could request verification from the customer that the system is still functioning, or that the customer has a reasonable plan to reenergize the system.

If a customer fails to repair the system or provide a reasonable plan to complete the repairs within six months, the utility would have the option to cancel the parallel generation service contract with the customer.

Upon cancellation of any parallel generation service contract, the utility would not be obligated to refund any fees previously paid by the customer.

Right to Repair (Subsection (n))

The bill would establish a customer's right to repair or rebuild their system with listed equipment as long as the repair or rebuild does not cause an increase in export capacity.

If a customer repairs or replaces a system, the customer would be required to notify the utility prior to the repair or replacement and provide proof that the new equipment complies with the same rules, regulations, and approved capacity as the original installation. The utility would have the right to require and conduct a witness test prior to authorizing operation of the system. A customer who repairs or replaces a system would not be required to submit a new parallel generation service application to the utility.

The bill would prohibit a customer from repairing or replacing a distributed energy system in a way that increases the export capacity of the system without providing prior notification to the utility. The utility would be permitted to require the customer to submit a new parallel generation service application to include the provisions and requirements relating to the system.

Demand Response (Subsection (p))

The bill would clarify that nothing in this section could be construed to require any cooperative, non-stock member-owned electric cooperative corporation incorporated in Kansas or a municipally owned or operated electric utility to opt-in to or otherwise participate in any demand response or distributed energy resource aggregation programs.

Net Metering and Easy Connection Act (Section 5)

The bill would amend the Net Metering and Easy Connection Act to include several provisions similar to the amendments made to the Parallel Generation Service Contracts law in the bill.

Canceling Interconnection Agreements (Subsection (c))

The bill would require any customer-generator who has received approval from a utility to construct or operate a net metering facility to notify the utility within 30 days of when the construction has been canceled or the facility is permanently shut down. The utility would be required to cancel the interconnection agreement with the customer upon receipt of the notice.

If a utility has reason to suspect that a customer-generator's facility has been abandoned and is no longer producing energy, the utility could request verification from the customer-generator that the facility is still functioning or that the customer-generator has a reasonable plan to reenergize the facility. If the customer-generator fails to repair the facility or provide a reasonable plan to complete the repairs within six months, the utility would have the option to cancel the interconnection agreement with the customer-generator.

Upon cancellation of any interconnection agreement, the utility would not be obligated to refund any fees previously paid by the customer-generator.

Right to Repair (Subsection (d))

The bill would establish a customer-generator's right to repair or rebuild their net metering facility that is subject to an interconnection agreement with listed equipment as long as the repair or rebuild does not cause an increase in export capacity.

If a customer-generator repairs or replaces a facility, the customer would be required to notify the utility prior to the repair or replacement and provide proof that the new equipment complies with the same rules, regulations, and approved capacity as the original installation. The utility would have the right to require and conduct a witness test prior to authorizing operation of the facility. A customer who repairs and replaces a facility would not be required to submit a new net metering interconnection application to the utility.

The bill would prohibit a customer-generator from repairing or replacing a facility system in a way that increases the export capacity of the system without providing prior notification to the utility. The utility would be permitted to require the customer-generator to submit a new net metering interconnection application to include the new provisions and requirements relating to the facility.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the House Committee on Energy, Utilities and Telecommunications at the request of a representative of the Clean Energy Business Council.

***House Committee on Energy, Utilities and
Telecommunications***

In the House Committee hearing, **proponent** testimony was provided by representatives of the Clean Energy Business Council and King Solar. The proponents generally stated that the bill seeks to create consistency in distributed generation policy, create disclosure requirements for solar retailers, address technical concerns about the interaction with the electric grid, and provide guardrails for how an existing system can be repaired. The proponents emphasized that the bill as introduced is not their final product and that they are working with other stakeholders to perfect the language.

Written-only proponent testimony was provided by representatives of Artisan Solar, Hutton Energy Service, Kansans for Lower Electric Rates, and Kansas Industrial Consumers Group.

Opponent testimony was provided by representatives of Evergy, Heartland Rural Electric Cooperatives, Kansas Electric Cooperatives, Kansas Municipal Energy Agency, Kansas Municipal Utilities, and Midwest Energy. The opponents generally expressed concern with the language in the bill as introduced, including the compensation formula and the absence of device isolation provisions, and discussed their negotiations to propose various amendments.

Written-only opponent testimony was provided by a representative of Pioneer Electric Cooperatives, Prairieland Electric Cooperatives, Southern Pioneer Electric Company, Sunflower Electric Power Corporation, The Victory Electric Cooperative Association, Western Cooperative Electric Association, and Wheatland Electric Cooperative.

Written-only neutral testimony was provided by a representative of the Kansas Chamber, who requested an amendment to the definition of “distributed energy systems.”

No other testimony was provided.

The House Committee amended the bill to:

Definitions

- Alter the definition of “distributed energy customer” to specify that it would mean a property owner of a single-family dwelling or multi-family dwelling of two units or fewer;
- Alter the definition of “distributed energy retailer” to include any person or entity that finances or installs a distributed energy system;
- Alter the definition of “distributed energy system” to specify that it would mean any device(s) capable of feeding excess electrical power generated by a customer’s energy producing system into the utility’s system such that all energy output and all other services will be fully consumed by the distributed energy customer or the utility;
- Remove the definition of “financed distributed energy system”;
- Alter the definition of “utility” to include electric utilities owned by one or more cooperatives;
- Remove the term “financed” before references to “distributed energy system” throughout;
- Remove references to “renewable” energy throughout;

Consumer Protections

- Require that distributed energy retailers be registered with the Secretary of State, in good

standing, and authorized to conduct business in Kansas;

Retailer Disclosures

- Include a description of the expected useful life of the distributed energy system;
- Require certain terms and conditions to be acknowledged in writing by the customer;
- Clarify that the individual certified by the North American Board of Certified Energy Practitioners would oversee the permitting and installation of the system;
- Require a description of all associated fees for transferring any financing, warranty, or other agreements to a new owner;
- Require the description and assumptions used for savings estimates to include the same provisions as outlined in the Attorney General's standard form;
- Clarify that proof of all permits for installation is required only if applicable;
- Include a statement as to whether the costs to remove, reinstall, and repair the system are included as part of the original contract price, should the system be affected by natural causes or exterior work on the premises;
- Alter the required language about the potential transfer of maintenance obligations to require the third party to be registered with the Secretary of State, in good standing, and authorized to conduct business in Kansas;

- Clarify that a statement would indicate whether the retailer shall place a lien, notice, or other filing on or against real property;
- Establish a maximum civil penalty of \$10,000 for each violation of disclosure requirements;
- Clarify that the section regarding consumer protections would not apply to a transaction of real property on which a system is already located;
- Clarify that the consumer protection provisions would take effect on July 1, 2025;

Utility Disclosures

- Require a utility to disclose, upon request, all other documents required for interconnection of a distributed energy system or a net metering tariff that was voluntarily established by a utility;
- Remove a provision regarding the disclosure of the historic amount of compensation on the utility's website;
- Clarify that the utility disclosure provisions would take effect on July 1, 2025;

Standard Disclosure Form

- Insert a provision requiring the Attorney General to appoint an advisory group charged with developing a standard disclosure form, which the bill would require to be published on the Attorney General's website on or before July 1, 2025;

Parallel Generation Service Contracts

Definitions

- Insert definitions for “avoided cost” and “distributed energy system”;
- Remove the definition for “limited export”;
- Replace “underwriters laboratories,” in the definition of “listed”, with “the institute of electrical and electronics engineers”;
- Remove a line in the definition of “locational marginal price” pertaining to \$0.01 per kilowatt-hour of alternating current;
- Replace references to “renewable” energy systems with references to “distributed” energy systems;
- Replace the definition of “utility”;
- Clarify that a witness test must be performed by an authorized representative of the electric utility;

Applications

- Insert provisions outlining application requirements for customers seeking to construct and install a distributed energy system with the utility’s system;
- Remove the bill’s interconnection application fee schedule and replace it with a provision stating that, for any customer requesting to install a distributed energy system, a utility may assess:
 - A fair and reasonable non-refundable interconnection application fee;
 - Any applicable costs incurred by the utility for any study conducted on export capacity; and

- Costs associated with any related system upgrade costs, devices, and equipment required to be furnished by the utility in order to accept the requested export capacity;

Compensation and Locational Marginal Pricing

- Change the calculation of compensation for exported energy to be not less than 100 percent of the utility's monthly avoided cost;
- Replace the provision related to locational marginal pricing, removing references to Midwest Energy, and move the sunset from 2035 to 2030;

Terms and Conditions for Parallel Generation Service

- Clarify that the utility would furnish, own, and maintain all necessary meters and equipment at the utility's expense;
- Restore a provision allowing the utility to limit the energy production from the generating facility to an amount no greater than the load at the customer's facility;
- Clarify that the customer would be required to furnish, install, operate, and maintain a listed device at the customer's expense;
- Add that the utility would be permitted to require that a customer's system contain a switch, circuit breaker, fuse, or other device or feature that may be accessed by the utility to manually disconnect the system;
- Remove a provision permitting the utility to require a customer to reimburse the utility for any devices or equipment required to be furnished;

- Add a provision requiring documentation that the customer's system was constructed and installed under the direction of a person who is certified by the North American Board of Certified Energy Practitioners, a master electrician, or licensed electrical contractor;
- Insert a provision granting the utility the right and authority to disconnect and isolate the distributed energy system without notice and at a utility's sole discretion under certain circumstances;
- Insert a provision stating the customer would retain the authority to temporarily disconnect the customer's system at any time. The disconnection would not be construed as a termination of agreement without express action;
- Remove a paragraph regarding special agreements for technical and safety conditions;

Formula for Appropriately Sized Electrical Load

- Change the formula for determining the appropriate size for distributed energy systems to differentiate capacity factors by types of utilities;
- Replace certain provisions regarding rounding to the nearest standard size with rounding to the nearest one kilowatt alternating current power increment;

Aggregate Export Capacity

- Require each utility to make parallel generation service available to customers who are in good standing with the utility on a first-come, first-served basis, until the utility's aggregate export capacity from all distributed energy systems equals or exceeds the following:

- Commencing July 1, 2025, 6 percent of the utility's historic peak demand;
- Commencing July 1, 2026, 7 percent of the utility's historic peak demand; and
- Commencing July 1, 2027, and each year thereafter, 8 percent of the utility's historic peak demand;

Exclusions

- Provide an exception to the aggregate export capacity requirement by not requiring a utility to make parallel generation service available to any customer who has a new or expanded facility that receives electric service at a voltage of 34.5 kilovolts or higher and commences such electric service on or after July 1, 2025;
- Determine a utility's historic peak demand for purposes of the aggregate export capacity; a utility's peak demand shall not include the additional demand of any new or expanded facility of an industrial, commercial, or data center customer that receives electric service at a voltage of 34.5 kilovolts or higher and commences such electric service on or after July 1, 2025;
- Set a sunset date of July 1, 2026, for the exclusions provisions;

Export-limiting Devices

- Authorize a utility to require a witness test of the export-limiting device's functions or settings prior to granting permission to operate and at any time during which the distributed energy system is connected to the utility's system;

- Allow a utility to require and conduct a witness test prior to authorizing operation of the system after a repair or reprogramming of the export-limiting device is completed;

Regulation

- Specify that parallel generation service contracts shall be subject to utilities under the jurisdiction, regulation, and supervision, and control of the KCC shall be subject to the utility's interconnection procedures and rules and regulations on file with the KCC;
- Specify for those utilities not subject to KCC regulation, that service for any parallel generation service contracts shall be subject to current FERC interconnection procedures and regulations;
- Clarify a provision regarding when a customer and utility cannot agree on contract terms and conditions to specify a "utility" is one that is regulated by the KCC.

Fees

- Clarify that nothing the section would be construed to:
 - Prohibit a utility from charging a distributed energy customer for the use of the utility's system; and
 - Authorize a utility to charge a distributed energy customer for power exported to the utility by a customer.

Canceling Service Contracts

- Reduce the time period from 24 months to 6 months for a customer to repair a system or

provide a reasonable plan to complete repairs to a system before a utility has the option to cancel the parallel generation service contract with such customer;

Right to Repair

- Specify that when a customer receives approval from a utility to construct or operate a distributed energy system, that customer shall notify the utility within 30 calendar days following the date when construction has been canceled or permanently shut down;
- Provide the right to repair listed equipment to the customer so long as the listed equipment does not increase the system's export capacity:
- After a customer does conduct the right to repair their system, the utility will have the right to require and conduct a witness test prior to authorizing operation of the system; and
- Before a customer exercises the right to repair their system, they shall be required to notify the utility if the repairs would increase the export capacity of the system;

Demand Response

- Specify that nothing in the section shall be construed to require any cooperative as defined in continuing law, non-stock member-owned electric cooperative corporation incorporated in Kansas or municipally owned or operated electric utility to opt-in to or otherwise participate in any demand response or distributed energy resource aggregation programs;

Net Metering and Easy Connection Act

- Update the net metering statute to require any customer-generator who has received approval from a utility to construct or operate a net metering facility to notify the utility within 30 days when the construction has been canceled or permanently shut down;
- Provide the right to repair listed equipment for a customer-generator of a net metering system so long as the listed equipment does not increase the system's export capacity:
 - After a customer does exercise the right to repair their system, the utility will have the right to require and conduct a witness test prior to authorizing operation of the system; and
 - Before a customer exercises the right to repair their system, the bill would require the customer to notify the utility if the repairs would increase the export capacity of the system;
- Make technical and conforming changes; and
- Change the effective date to upon publication in the *Kansas Register*.

The House Committee recommended a substitute bill be passed incorporating the amendments.

House Committee of the Whole

The House Committee of the Whole amended the bill to specify that only those entities required by the Business Entity Standard Treatment Act to be registered with the Secretary of State would be required to be registered with the Secretary of State under the bill.

Senate Committee on Utilities

In the Senate Committee hearing, **proponent** testimony was provided by Representative Delperdang; a solar retailer; and representatives of the Clean Energy Business Council, Evergy, Kansas Electric Cooperatives, Inc., Kansans for Lower Electric Rates and Kansas Industrial Consumers Group, and Kansas Municipal Utilities. The conferees generally indicated the bill would create a baseline of consistency across all utilities in Kansas, would give the electric industry certainty as to how distributed generation will be handled in the future, and would provide clarity in expectations provided by existing legislation. The proponents also stated this bill would address consumer disclosures on residential systems and would ensure additional clarity and uniformity for solar installers under the parallel generation statute.

Written-only proponent testimony was provided by a representative of Midwest Energy.

No other testimony was provided.

The Senate Committee adopted technical amendments to the bill.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Citizen's Utility Ratepayer Board (CURB) indicates that enactment of the bill would not have an immediate fiscal effect on operations but would potentially create dockets on new tariffs in the future that would require intervention by the Board. CURB anticipates that it would be able to handle the additional workload within existing resources. The KCC indicates that enactment of the bill would not have a fiscal effect on operations.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

The League of Kansas Municipalities indicates that enactment of the bill could increase operating expenditures or decrease revenues to cities; however, a fiscal effect cannot be estimated. The Kansas Association of Counties indicates that enactment of the bill would have a fiscal effect for any county that qualifies as an energy retailer; however, a fiscal effect cannot be estimated.

Energy; utilities; distributed energy systems; distributed generation; consumer protections; parallel generation; solar power